



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest:	Inquest into the death of Simone Strobel
Hearing dates:	11-15 November 2024
Date of findings:	6 November 2025
Place of findings:	Coroners Court of New South Wales at Lidcombe
Findings of:	State Coroner, Magistrate Teresa O'Sullivan
Catchwords:	CORONIAL LAW – fresh inquest – unsolved homicide – death of German national in 2005 – previous inquest held in 2007 – ongoing police investigations in NSW and Germany – multiple persons of interest – new evidence since previous inquest – whether any known person or persons caused the death – new findings as to cause and manner of death
File number:	2005/373850
Representation:	<p>Counsel Assisting: Philip Strickland SC and Matthew McAuliffe, instructed by Gillian Buchan and Rachel Karrour, NSW Crown Solicitor's Office</p> <p>Counsel for NSW Commissioner of Police: Katrina Curry, instructed by Craig Norman, NSW Police Force Office of General Counsel</p> <p>Counsel for Detective Sergeant David Mackie: Darien Nagle, instructed by Dominic Longhurst, NSW Police Association</p> <p>Counsel for Tobias Moran: Tim Game SC, Georgia Huxley and Alexandra Burkett, instructed by Jonelle Di Lena, Di Lena Defamation and Litigation</p> <p>Counsel for Allan Green and Thomas Green: James Pender, Aboriginal Legal Service (NSW/ACT)</p>

<p>Protective orders:</p>	<p>Non-publication orders were made on 13 November 2024 (prohibiting publication of and restricting access to Exhibit 16, being audio recordings and transcripts); and on 14 November 2024 (prohibiting publication of and restricting access to Exhibit 17, being autopsy and crime scene images). A copy of the protective orders may be obtained by application to the Coroners Court Registry.</p>
<p>Findings:</p>	<p>I find as follows:</p> <p>Identity: The person who died was Simone Monika Strobel (Simone).</p> <p>Date of death: Simone died on 12 February 2005.</p> <p>Place of death: Simone died in the vicinity of the Continental Music, Sports and Recreation Club in Lismore, New South Wales, Australia.</p> <p>Cause of death: I am unable to determine the cause of Simone's death.</p> <p>Manner of death: Simone died as a result of homicide by a person or persons unknown</p>
<p>Recommendations:</p>	<p>To the NSW Commissioner of Police:</p> <ol style="list-style-type: none"> 1) I recommend that the death of Simone Monika Strobel be referred to the NSW Homicide Squad, Unsolved Homicide Team (UHT) for assessment and monitoring in accordance with their operating procedures; and I suggest that the UHT should give particular consideration to: <ol style="list-style-type: none"> a. reviewing the exhibits, in particular the male DNA profile recovered from Simone's black top, to determine whether there are any further items or DNA profiles of individuals that should be forensically tested and whether any DNA profiles can be matched; and b. conducting further analysis of the mtDNA profile recovered from Hair A; and c. whether further expert opinion regarding the cause of Simone's death can be obtained.

Contents

Introduction	3
The role of the coroner and the scope of the inquest	6
Suspension and resumption of the inquest	6
Inquest hearing	8
The Brief of Evidence	8
Oral evidence	9
Closing submissions	16
Background facts	16
Simone Strobel	17
Simone's travels: August 2004 to February 2005	18
Events of 11 February 2005	20
Return to the Caravan Park	25
Last sightings of Simone	25
Events between 12 and 17 February 2005	28
Discovery of Simone's body	33
Crime scene and forensic evidence	34
Hairs found on the wire fence	35
Fibres found on the wire fence	36
Simone's black top	36
Palm fronds	37
Inner perimeter	39
Campervan	39
Autopsy reports and expert evidence	40
Cause of death	40
Evidence of injury	41
Scratch-like abrasions	42
'Defence injuries' and sexual motive	43
Blood analysis	45
Key findings at previous inquest	45
Key issues considered at fresh inquest	49
Issue 1 – What was the time of Simone's death?	50
Issue 2 – Where did Simone die?	54
Issue 3 – Did Simone's killer have a sexual motive?	65
Issue 4 – Is a known person responsible for Simone's death?	69
Other issues considered at fresh inquest	72
Issue 5 – Significance of Mr Moran's lies	72
Issue 6 – Cause of death evidence	81
Issue 7 – Unmatched DNA profiles	83
Formal findings as to manner and cause of death	84

Recommendation	85
Submissions on proposed referral to the NSWPF UHT	85
Formulation of referral to the NSWPF UHT	87
Acknowledgments and concluding remarks	87

The Coroners Act 2009 (NSW) in section 81(1) requires that when an inquest is held, the coroner must record in writing his or her findings as to various aspects of the death. These are the findings of an inquest into the death of Simone Monika Strobel.

Introduction

1. This inquest concerns the death of Simone Monika Strobel (**Simone**), a 25-year-old German national whose deceased body was found on 17 February 2005 covered in palm fronds in parkland in Lismore, New South Wales. Simone had been in the country for around six months at the time of her death, backpacking with a group of young German nationals along the east coast of Australia.
2. Simone's body was found in a Bocce Court on the outer boundary of the Continental Music, Sports and Recreation Club (**Continental Club**), located on the corner of Dawson Street and Uralba Street in Lismore. The location of her deceased body was approximately 90 metres from the Lismore Caravan Park.
3. Simone had arrived to stay at the Caravan Park six days earlier, on 11 February 2005, with her boyfriend, Tobias Moran (**Mr Moran**) and their travelling companions, Mr Moran's sister, Katrin Suckfüell (**Ms Suckfüell**) and Jens Martin (**Mr Martin**).
4. An inquest into Simone's death was held at Lismore in 2007 (**previous inquest**). Findings in the previous inquest were delivered by (then) Deputy State Coroner MacMahon (**Coroner MacMahon**) on 16 October 2007.¹ His Honour was satisfied that it was more probable than not that Simone died at Lismore in the early hours of 12 February 2005. His Honour also found that, in the circumstances, it appeared likely that Simone had been killed in the vicinity of the Caravan Park and then taken to the location where she was found, with her clothing removed at or about that time. I revisit the findings of Coroner MacMahon later in these findings.

¹ Brief of Evidence (**BOE**) V1A Tab 18.

5. After the previous inquest, the NSW Police Force (**NSWPF**) continued to investigate Simone's death in collaboration with criminal investigators in Würzburg, Germany.
6. On 1 August 2019, Detective Sergeant David Mackie (**DS Mackie**), who was by that stage the NSWPF Officer in Charge (**OIC**) of the criminal investigation into Simone's death, made an application to this Court for a fresh inquest to be held.² That application was supported by Simone's family, who had written to the Court earlier in 2019 expressing their desire for a fresh inquest to be held.³
7. Section 83(4) of the *Coroners Act 2009* (NSW) (**the Act**) provides that a fresh inquest "must be held" where an application is made under s 83 of the Act, including by a police officer,⁴ and "*the State Coroner is of the opinion that the discovery of new evidence or facts makes it necessary or desirable in the interests of justice to hold a fresh inquest or inquiry.*" On the basis of DS Mackie's application, I directed that a fresh inquest into Simone's death should be held.
8. Broadly speaking, and without commenting on the merits of the new evidence, the categories of new evidence which had emerged by 2019 are as follows:
 - a. Police statements that had not been made or not translated into English at the time of the previous inquest, including:
 - i. English translations of multiple statements given in German by key witnesses Mr Moran, Ms Suckfüell and Mr Martin to German police between 2005 and 2019;
 - ii. an English translation of a statement given by Mr Hirofumi Iwakura (Gun) to Japanese Police in 2009; and

² Exhibit 27.

³ BOE Vol 1A Tab 17.

⁴ *Coroners Act 2009* (NSW) (**the Act**), s 83(5).

- iii. English translations of statements made by three of Simone's family members to German police in 2017.
- b. New witness accounts, including:
- i. accounts given to the author of the book "*Have You Seen Simone?*" published in 2014; and
 - ii. what came to be called Mr Moran's "*Main document*" (dated around 2009-10), which was seized by police during a search warrant executed in Western Australia in 2017.
- c. Expert reports, including:
- i. a second German autopsy report by forensic pathologist, Professor Dieter Patzelt (2008) regarding the Gamma-hydroxybutyric acid (GHB) concentration in Simone;
 - ii. a third German autopsy report by Professor Patzelt (2011) regarding abrasions on Simone's body;
 - iii. a report by criminologist Professor P. Wilson (2011);
 - iv. several Mitochondrial DNA (**MtDNA**) reports following further analysis undertaken in Germany and Austria of DNA samples taken from crime scene exhibits (namely, the palm fronds covering Simone's body and the black top Simone was wearing).
9. As will be clear from these findings, further evidence also emerged during the course of the fresh inquest, such that I ultimately had a substantial volume of new evidence before me that either did not exist or was not available during the previous inquest.

The role of the coroner and the scope of the inquest

10. The primary role of the coroner is to make findings as to the identity of the deceased and in relation to the date and place of their death: s 81(1)(a)-(b) of the Act.
11. The coroner is also to record findings concerning the manner and cause of the person's death: s 81(1)(c) of the Act. The Act does not define the phrase "manner and cause of death". It is generally accepted that cause of death refers to the direct and proximate physiological cause of the death, while manner of death relates to the broader circumstances leading up to and surrounding the death.
12. Pursuant to section 82 of the Act, a coroner may make recommendations in relation to any matter connected with the death into which an inquest is concerned. The matters that can be the subject of a recommendation include that the case be investigated or reviewed by a specified person or body. A recommendation can be made if it arises from the evidence adduced and tendered at the inquest or inquiry.
13. Section 81(3) of the Act provides that when I deliver my findings, I must not indicate or in any way suggest that an offence has been committed by any person.

Suspension and resumption of the inquest

14. Section 78 of the Act requires a coroner to suspend an inquest in certain circumstances.
15. One such scenario arises under s 78(1)(b), which provides that an inquest must be suspended if a coroner forms the opinion that the evidence is capable of satisfying a jury beyond reasonable doubt that a known person has committed an indictable offence, and that offence raises the issue of whether the person caused

the death the subject of the inquest, and there is a reasonable prospect a jury would convict that person. That scenario did not arise in this case.

16. A second scenario arises under s 78(1)(a) of the Act, which provides that a coroner must suspend an inquest if a person has been *charged* with an indictable offence and that offence raises the issue of whether the person caused the death the subject of the inquest. This scenario arose in July 2022, when NSW Police charged Mr Moran with Simone’s murder and an associated charge of perverting the course of justice. At that point in time, the fresh inquest had been listed for hearing in November 2022, but the murder charge against Mr Moran caused me to vacate those hearing dates and suspend the fresh inquest.
17. In June 2023, the criminal charges against Mr Moran were withdrawn by the Director of Public Prosecutions. In October 2023, the Local Court of NSW made a finding under s 117(b) of the *Criminal Procedure Act 1986* (NSW) that the proceedings were initiated without reasonable cause. Mr Moran was awarded costs.⁵
18. I have briefly noted what transpired in the criminal jurisdiction for contextual purposes only, given those criminal proceedings impacted the coronial process, as contemplated by s 78 of the Act. This inquest was not concerned with and did not explore the charging and prosecution of Mr Moran.
19. Section 79 of the Act sets out the procedure to be followed after an inquest is suspended, provided the relevant criminal charge has been “finally determined”. It is not mandatory for a coroner to resume or hold an inquest after it has been suspended under s 78, and sometimes such inquests are dispensed with. After the criminal charges against Mr Moran were withdrawn, I determined to resume the fresh inquest into Simone’s death.

⁵ BOE V10 Tab 524.

Inquest hearing

20. On 11 November 2024, I presided over a five-day inquest hearing at Lidcombe.
21. A number of parties sought leave pursuant to s 57 of the Act to appear or to be legally represented at the hearing, including the Commissioner of Police, DS Mackie, Mr Moran, and Allan and Thomas Green (**Green brothers**). Four additional individuals had earlier been sent written notification of having a sufficient interest in the subject matter of the proceedings, but they declined to seek leave to appear or to be legally represented in the fresh inquest.
22. Alexander and Christina Strobel, Simone's brother and sister, travelled from Germany to Sydney to attend each day of the inquest hearing. While they did not seek leave to appear or to be legally represented at the hearing, they were otherwise fully engaged with the inquest process on behalf of the Strobel family. They also provided written closing submissions after the hearing, to which I have had regard.
23. At the conclusion of the evidence, Christina provided a moving statement to the Court about her older sister. Christina described the impact of Simone's tragic death on her family, who remain deeply affected by her passing.

The Brief of Evidence

24. On the first day of the hearing, a 20-volume brief of documentary evidence was tendered,⁶ and a hard-drive containing audio-visual files was tendered,⁷ all without objection (**brief of evidence**). The brief of evidence included material tendered during the previous inquest, however, the coronial brief that had been tendered before Coroner MacMahon in 2007 comprised only nine volumes. This

⁶ Exhibit 1.

⁷ Exhibit 2.

meant that, when the fresh inquest opened, I had more than double the volume of evidence before me than Coroner MacMahon.

25. A number of further items, comprising documents, recordings and correspondence, were tendered at the hearing and marked Exhibits 3 to 24.
26. After the hearing, three additional items were tendered in Chambers and marked Exhibits 25 to 27. This included two large maps depicting locations of interest in Lismore, which were presented at the hearing and referred to during witness examination. Those maps were marked by some of the witnesses who gave oral evidence, and they helpfully orient the evidence. The maps are referred to at numerous points throughout these findings.

Oral evidence

27. The following witnesses gave evidence at the hearing between 12 and 15 November 2024:
 - a. DS Mackie;
 - b. Mr Jamie Vidler;
 - c. Ms Sharelle Gregor;
 - d. Mr Phillip Lenton;
 - e. Mr Heath Tunstall;
 - f. Dr Nicholas Repin;
 - g. Mr Brett Groth;
 - h. Mr Glen Thompson; and.

i. Dr Judith McCreath (forensic pathologist).

28. Four additional witnesses in Germany were formally invited by my assisting team to give evidence but declined. Those witnesses were Mr Martin; Ms Suckfüell; Professor Dieter Patzelt (retired forensic pathologist); and Professor Michael Bohnert (forensic pathologist).⁸
29. Information received by those assisting me indicated that Professor Patzelt retired 14 years prior to the fresh inquest and was not fit to give evidence.⁹ Professor Bohnert, while the co-signatory of a 2011 German autopsy report, never examined Simone's corpse and was not involved in the earlier German autopsy reports prepared in 2005 and 2008. Professor Bohnert told my assisting solicitor that he was unable to give a well-founded expert-opinion in the inquest.¹⁰
30. I now turn to introduce and briefly summarise the oral evidence given by the witnesses listed at [27] above.

DS Mackie

31. DS Mackie gave evidence as the OIC of the investigation into Simone's death at the time of the hearing, by which point he had been a serving police officer for almost 35 years. He became the OIC of the investigation in 2012, taking over from the previous (and original) OIC, Detective Sergeant Shane Diehm (**DS Diehm**). DS Mackie has been involved in the criminal investigation into Simone's death since 2005 when he was a Senior Constable.¹¹
32. DS Mackie gave detailed evidence over two days about the initial investigation that started in February 2005,¹² including the process and outcomes of conducting a number of interviews; obtaining witness statements; reviewing CCTV footage; the forensic analysis of evidence seized from in and around the

⁸ Exhibit 23.

⁹ Exhibit 23, Tab 11.

¹⁰ Exhibit 23, Tab 15.

¹¹ T43.14-25.

¹² T43.

crime scene; reviewing and considering a large number of reports and calls from the community; and the use of covert listening devices on a number of occasions.

33. DS Mackie also gave evidence about the opinions of Detective Sergeant Kris Illingsworth (**DS Illingsworth**) contained in a 2005 Criminal Investigative Analysis Report (**Illingsworth report**), which took on some significance in this inquest. He was challenged over his case theory and questioned on the importance of a number of lies that Mr Moran had told.¹³ He was questioned extensively and his oral evidence is referred to throughout these findings.

Mr Jamie Vidler

34. Jamie Vidler had been camping in the Lismore Caravan Park for about two weeks on 11 February 2005 and his campsite was in close proximity to the German group.¹⁴ At the time he was on bail for an alleged assault against his girlfriend, and he had a significant criminal history which included convictions for serious violence offences.¹⁵
35. Mr Vidler was interviewed by police in relation to Simone in 2005, before and after her body was discovered. He denied having ever seen Simone,¹⁶ he gave an alibi for the relevant period, and he detailed an interaction that he had with Ms Suckfüell on 12 February 2005 at around 10:00am. In the early stages of the investigation, Mr Vidler told police that a friend, being Allan Green, dropped his backpack in his tent on the evening of 11 February 2005.
36. Mr Vidler was called to give evidence at the fresh inquest because other witnesses gave statements to police alleging that Mr Vidler confessed to killing Simone. Other witnesses also suggest that Mr Vidler was awake throughout the night of 11 February 2005.

¹³ T53.18-30.

¹⁴ BOE V5B Tab 183 at A151.

¹⁵ BOE V14 Tab 534.

¹⁶ BOE V5B Tab 183.

37. Mr Vidler gave evidence at the inquest voluntarily on a number of topics without objection. He was questioned on his alibi and movements on 11 and 12 February 2005;¹⁷ his connection to and conversations with Allan Green and other persons of interest;¹⁸ his alleged admissions and confession;¹⁹ moving the location of his tent between 12 and 18 February 2005;²⁰ and his interactions with Ms Suckfüell.²¹ In respect of Allan Green specifically, Mr Vidler told the Court that Allan often used to “drop in” and leave his belongings in his tent, as he thinks Allan was homeless and had nowhere else to leave things.²²

Ms Sharelle Gregor and Mr Phillip Lenton

38. Ms Gregor and Mr Lenton are husband and wife. In 2005, they were living together in Goonellabah, a suburb just outside of Lismore. They were called to give oral evidence at the inquest in relation Mr Gavin (Gus) Parker, who they allege confessed to them that he killed Simone. Ms Gregor and Mr Lenton made statements to this effect to police in 2019.

39. The alleged confessions by Mr Parker were said to have been made to Ms Gregor and Mr Lenton in February 2005, after Simone had gone missing but prior to her body being discovered. The Court heard that Mr Parker had been sleeping under their house at around this time and was carrying around a palm frond, adorned with ribbon and other colourful things, which he referred to as his “*dragon’s tail*”.²³

Mr Heath Tunstall

40. At the time of Simone’s disappearance, Heath Tunstall was living in the Caravan Park, where he had been since 3 February 2005. Mr Tunstall gave evidence in

¹⁷ T251-T255; T259-T261, T282-T292; T307-T310.

¹⁸ T305-T309; T315-T318.

¹⁹ T310-T314.

²⁰ T293-T297; T302-T304.

²¹ T236; T258.

²² T190.1-5.

²³ Ms Gregor: BOE V61 Tab 201I; T195-T204; Mr Lenton: BOE V6A Tab 201H; T205-T232.

his 2005 statement to police and at the inquest hearing about a number of interactions he had with Mr Vidler at around this time.²⁴

41. In one such interaction, said to have occurred on 18 February 2005 while Mr Tunstall, Mr Vidler and another man were looking at the memorial for Simone, Mr Tunstall claims that Mr Vidler said: “*the Nazi bitch deserved what she got*” and “*I killed her and I’ll kill all the Nazi bitches ... they should stay in their own country*”.²⁵ At the inquest, Mr Tunstall was questioned about his observations of Mr Vidler’s demeanour at the time of that alleged confession, and other interactions he had with Mr Vidler that made him believe Mr Vidler was responsible for Simone’s death.²⁶

Dr Nicholas Repin

42. Nicholas Repin was a radiologist working at Lismore Base Hospital and other local hospitals in 2005. On the evening of 11 February 2005, he was rostered to be on-call.²⁷ Dr Repin gave three statements to police in March 2005 regarding his sighting of a female at the roundabout at the intersection of Dawson and Uralba Street at about 11:55pm on 11 February 2005, on his way to the hospital.²⁸
43. Dr Repin was called to give evidence at the inquest about that sighting.²⁹ He described the female “*as white Caucasian of unremarkable height and build*”, who may have had dark shoulder length hair. After later seeing a photograph of Simone in the *Northern Star* newspaper, Dr Repin thought it was possible that the female he saw on the evening of 11 February was Simone.³⁰

²⁴ BOE V6A Tab 236; T320-T327.

²⁵ BOE V6A Tab 236 at [12]; T323-T324.

²⁶ T324-T325.

²⁷ BOE V7 Tab 337.

²⁸ BOE V7 Tabs 337-339.

²⁹ T329.15-23; BOE V7 Tabs 337-339.

³⁰ T331.

Mr Brett Groth

44. On 11 February 2005, Brett Groth was working an afternoon/evening shift as a cleaner at St Carthage's Primary School in Lismore.³¹ He gave evidence that around 11:50pm to 11:55pm that evening, he was driving towards the intersection of Dawson and Uralba Streets,³² and saw a female wearing black and red coloured hippy styled clothing.³³ As he crossed the bridge, he says he saw a man on the opposite side of the road walking towards the woman.³⁴
45. In his statements to police in February and March 2005, Mr Groth described the man as being about 40-50 years old. At the inquest, Mr Groth gave evidence for the first time that, sometime after April 2005, he saw a photograph of Mr Moran in the *Northern Star* newspaper and recognised him as the man he saw walking across the road and towards the woman on 11 February 2005.³⁵ Mr Groth told his wife but did not report this to police at the time.³⁶ His evidence given in Court some 19 years later cannot be reconciled with his initial description of the man given to police in 2005.

Mr Glen Thompson

46. Glen Thompson was also a Lismore resident in 2005 who had known Mr Parker since high school.³⁷ Mr Thompson's evidence is that Mr Parker had been staying at his house for a few weeks prior to 11 February 2005. On the evening of 11 February, Mr Parker had been at Mr Thompson's house, but at about 10:30pm or 10:45pm he said he had been paid and was going out.³⁸

³¹ BOE Vol 6B, Tab 304.

³² T335-T336.

³³ BOE Vol 6B, Tab 304.

³⁴ BOE Vol 6B, Tab 304; T337.25-27.

³⁵ T345-366.

³⁶ T346.27-33.

³⁷ T367.

³⁸ BOE V6A Tab 201.

47. Mr Thompson gave evidence at the hearing that he dropped off Mr Parker at his car on Laurel Avenue near the McDonalds and last saw him at around 11:00pm.³⁹ After leaving the McDonalds, which was closed, Mr Thompson told the Court he saw two “*young blokes*” just east of the bocce and tennis courts, and he also saw a female who he believes was Simone at the 24-hour service station on the corner of Woodlark and Dawson streets.⁴⁰
48. Mr Thompson gave evidence that Mr Parker changed his appearance on the morning of 12 February 2005, notably that he was clean and had a haircut.⁴¹ Mr Thompson also gave evidence about conversations between him and Mr Parker. This includes a conversation Mr Thompson claims to have occurred before Simone’s body was found, in which Mr Parker said to him, “*they will find what they’re looking for behind the Devil’s Stones. They will find blood on the wall*”.⁴²

Dr Judith McCreath

49. Dr Judith McCreath is the forensic pathologist who conducted an autopsy on Simone’s body on 18 February 2005. In her subsequent Post Mortem report she concluded that the direct cause of Simone’s death was undetermined.⁴³
50. Dr McCreath, who retired in 2019, gave evidence at the hearing regarding her finding as to Simone’s cause of death. Dr McCreath also gave evidence on a number of specific and technical topics, including the large number of abrasions present on Simone’s body and how some of those abrasions were likely caused;⁴⁴ her views on a visible reddening of the tissue on Simone’s left lower

³⁹ T368-T369; BOE V6A Tab 201.

⁴⁰ T369.

⁴¹ T370-T371.

⁴² T372.25-33; BOE V6A Tab 201.

⁴³ BOE V1A Tab 5 p13; T380.21-30.

⁴⁴ T383.4-T384.43; T390.15-T391.6; T392.8-28.

jaw; and why her views on this differed from German pathologist, Professor Patzelt.⁴⁵

51. Dr McCreath was also questioned on whether the injuries (or absence of injuries) on Simone’s body can prove whether or not she defended herself and whether or not she was sexually assaulted.⁴⁶ Dr McCreath’s evidence on these topics is examined in further detail below.

Closing submissions

52. The hearing concluded on 15 November 2024. Thereafter, a timetable for written closing submissions was set. Between February and April 2025, I received comprehensive written submissions from Counsel Assisting and on behalf of DS Mackie, the NSW Commissioner of Police, Mr Moran and the Strobel family.⁴⁷
53. While it is not possible to summarise all of the evidence in detail in these findings, in making these findings, I have considered and assessed all of the tendered material, the oral evidence given by the witnesses, and the detailed written submissions of Counsel Assisting, the interested parties, and the Strobel family.

Background facts

54. Much of the factual background set out below was helpfully summarised by Counsel Assisting in their detailed closing submissions.
55. To the extent the background facts set out by Counsel Assisting in closing submissions are uncontroversial or were not disputed in other closing submissions, I reproduce them below. Where factual controversies did arise

⁴⁵ T381.42-T382.32, T384.45-T386.9.

⁴⁶ T385.26-T386.42.

⁴⁷ Counsel Assisting submissions dated 26/02/2025 (**CAS**); Submissions on behalf of DS Mackie dated 04/03/2025 (**Mackie submissions**); Submissions on behalf of the NSW Commissioner of Police dated 07/03/2025 (**Commissioner submissions**); Submissions on behalf of Tobias Moran dated 28/03/2025 (**Moran submissions**); Submissions on behalf of the Strobel family dated 28/03/2025 (**Family submissions**); Submissions in reply of DS Mackie dated 14/04/2025 (**Mackie reply submissions**); Submissions in reply of counsel Assisting dated 15/04/2025 (**CAS in reply**).

between the interested parties, this will be made clear. Where I consider it necessary to do so, I will make a finding in relation to a disputed fact; but this is not necessary in respect of all areas of disagreement between the parties.

Simone Strobel

56. First, I wish to say a little about the person Simone Strobel.
57. Simone was born on 20 September 1979 in Germany. She is survived by her parents, Gustav and Gabi; her older brother, Alexander; and her younger sister, Christina. Simone's parents operated a piggery with wheat and sugar beet plantations and this is where she and her siblings grew up. The farm had been in the family for many years and was started by Simone's grandparents after World War II.⁴⁸
58. Simone was described by her family as a lovely girl who was outgoing and energetic. It is clear that she was deeply loved and adored by those around her. Simone's older brother, Alexander, described her as "*liked by everyone ... a girl of strong character and a very reasonable person.*" Simone's maternal uncle, Hermann, with whom she was very close and who travelled to Australia after she died, described her as, "*very affectionate, very open, very in need of harmony, very honest. With a high social attitude for a person her age.*"⁴⁹
59. Simone studied at teacher's college and for three years before coming to Australia, she had a job teaching kindergarten children with disabilities in Wurzburg, Germany. Simone had planned her dream trip to Australia for some time and during her travels here, she reported on her adventure enthusiastically to her family back home in Germany.⁵⁰

⁴⁸ BOE VA1 Tab 11.

⁴⁹ BOE V1A Tabs 10-13.

⁵⁰ BOE V1A Tabs 10-11.

Simone's travels: August 2004 to February 2005

60. Simone was 24 years old when she came to Australia on 20 August 2004 with her then boyfriend, Mr Moran. Having obtained working holiday visas, Simone and Mr Moran intended to live and work in Australia for 12 months on a backpacking holiday. Prior to 11 February 2005, the pair had travelled up and down the east coast of Australia in a campervan. Simone and Mr Moran had been in a relationship for approximately six years prior to their arrival in Australia.⁵¹
61. Simone and Mr Moran kept diaries about their travels during the period between August 2004 and February 2005. German Police in Wurzburg analysed the two diaries in March 2005. A file note summarising that analysis, which was tendered and marked Exhibit 15 at the hearing, concluded that both diaries showed a “*very good mood overall*” during this period.⁵²
62. On 25 January 2005, Mr Martin (Mr Moran's good friend) and Ms Suckfüell (Mr Moran's sister) arrived in Australia and met Simone and Mr Moran.⁵³ At times throughout these findings, I refer to Simone, Mr Moran, Mr Martin and Ms Suckfüell as the “German group”.
63. On 9 February 2005, the German group arrived at the Sandon River campground near Grafton where they stayed for two nights. It rained quite heavily during their short stay at Sandon River.⁵⁴
64. Diary entries made by Simone and Mr Moran on 10 February 2005 reflected a low mood and tension between the couple. Simone's diary recorded:⁵⁵

It rained again all night + the morning was also grey on grey. After I begged Toby to let Käty + me into the van with him, he flipped out totally + it is the "badest" vibration between us since we've been in Australia - fuck you! We spent the whole

⁵¹ CAS at [7]; BOE V1B Tab 30.

⁵² Exhibit 15.

⁵³ CAS at [8]; BOE V5A Tab 16; BOE V4A Tab 132.

⁵⁴ CAS at [8]; BOE V5A Tab 169.

⁵⁵ BOE V8 Tab 391.

rainy day separated like that, Käty + I in the van + the others in the tent. In spite of everything, I spent a lovely, dulled day with Käty. In the afternoon I even caught my first fish from the River - it could even have been eaten but Käty + I let it have its freedom again! Nice one! Toby hasn't spoken a single word all day + I was very surprised that he came to sleep in the van - but not a word was spoken! - shit one!

65. Mr Moran's diary on 10 February 2005 similarly recorded a low mood and tension:⁵⁶

Not a nice day, actually, this was a fucking day!!! Simmi got on my nerves right off in the morning, I wasn't even quite awake! It's really getting too much, it can't go on like this. So this just was not a good day, I hardly spoke with Simmi and I was very introverted. Consequently, the mood in our group suffered, it can't always be good just for the sake of the group. On top of this it rained all day, and so Jens and I hung around in the tent and the girls in the van! We went fishing again and Simmi caught her first fish – and a big one at that. I also got 2 small fish. We had a nice break [breakfast? - Transl.] and a very nice BBQ Dinner. This day was downright stupid, on top of which Kaethy [sic] also came across as completely strange. I can't work her out.

66. The family submitted that, *“it is now uncontroversial that there was a serious argument in the days leading up to Simone’s death between [Mr Moran] and Simone and this argument reached a crescendo on the night of her disappearance”*.⁵⁷ Mr Moran submitted that German Police concluded the diaries showed a *“good mood overall”* and that, in the six months prior to 11 February 2005, the only time the couple had written about any conflict or tension between them was on 10 and 11 February 2005.⁵⁸
67. Mr Moran's submission is consistent with Exhibit 15, but it does not necessarily contradict the family's submission either, noting the submissions emphasise different time periods.

⁵⁶ BOE V8 Tab 392.

⁵⁷ Family submissions at [15].

⁵⁸ Moran submissions at [7] and [8].

Events of 11 February 2005

The German group

68. On the morning of 11 February 2005, the group travelled to the Lismore Caravan Park. Simone's diary on 11 February 2005 stated, "*Today began just as shit as yesterday had ended!*". The entry in Mr Moran's diary stated, "*Mood is still rock bottom and I don't even know what's going to happen in the coming days!*"⁵⁹
69. The group set up their camp at a powered site near the amenities block. Photographs taken by police on 14 February 2005 show the approximate location and configuration of the campsite on 11 February 2005. The location of the campsite is marked as location "A" on the map that became Exhibit 25 at the inquest.⁶⁰
70. During the afternoon, Simone and Ms Suckfüell went shopping in the Lismore CBD before eating and drinking beer at the Gollan Hotel. Tobias and Jens went to the Mary Gilhooley's Irish Pub. They had a meal and about four or five schooners of full-strength beer. During the afternoon Tobias saw Hirofumi Iwakura (aka "Gun"), a Japanese backpacker whom they had met in December 2004 while camping in Nimbin. Mr Iwakura was also camping at the Lismore Caravan Park close to the Germans' campsite on 11 February 2005.⁶¹
71. Later in the afternoon, Simone, Ms Suckfüell and Mr Iwakura walked from the Caravan Park into town where they purchased takeaway beer before returning to the campsite. The larger group, consisting of Simone, Mr Moran, Mr Martin, Ms Suckfüell and Mr Iwakura left the Caravan Park at about 8:15pm, where they walked to Lismore town centre.⁶²

⁵⁹ BOE V8 Tab 391; V8 Tab 392.

⁶⁰ BOE V7 Tab 372E (marked Exhibit 25)

⁶¹ CAS at [13].

⁶² CAS at [14].

72. At 8:33pm, Jens and Tobias are depicted on CCTV exiting the Metropole Hotel.⁶³
73. At about 9:17pm, the group entered the Gollan Hotel. Investigators obtained a number of witness accounts from those inside the hotel that evening. Counsel Assisting submitted that the evidence broadly establishes that there was tension within the group at times while they were in the hotel. A number of witnesses describe an argument between Mr Moran and Ms Suckfüell, and Mr Moran and Simone. Both Simone and Ms Suckfüell were observed to be crying.⁶⁴ Ms Suckfüell left the hotel before the rest of the group.
74. Due to the intoxication of the group, Paul Harris, the bar manager at the Gollan Hotel, asked that they finish their drinks and leave the hotel. Mr Harris saw Simone stand up, turn, and fall. She hit the front of her head on the corner of the table behind her. No one pushed or bumped Simone. In Mr Harris' opinion "*she obviously fell due to her intoxication*".⁶⁵
75. At 10:56pm, Simone and Mr Martin appear in CCTV footage outside the Gollan Hotel.⁶⁶ Simone can be seen in a black top, red dress with white pants underneath the dress. Mr Martin is wearing a maroon long sleeved shirt and light-coloured shorts. Simone walks away from the hotel and Mr Martin appears to follow.
76. Helena Langton, an employee of the Gollan Hotel saw Simone re-entering the hotel where she stood in the bistro area. She appeared "*really drunk*" and was told by Mr Harris that she could not be in that area of the Hotel.⁶⁷
77. Mr Harris then argued with Mr Moran over whether he should be allowed to finish the drinks he had bought. At 11:10pm, Mr Moran is pictured gesturing with a person in the doorway of the Gollan Hotel. Simone and Mr Martin are standing in

⁶³ BOE AV files Tab 2 (Lismore Council CCTV – "X0002610984 Tape 2 11-02-11 part 1" at 3:43).

⁶⁴ BOE V5A Tab 172 at [5]; BOE V5B Tab 180 p26; BOE V6B Tabs 248 and 250.

⁶⁵ BOE V6B Tab 248 at [11].

⁶⁶ BOE AV files Tab 2 (Lismore Council CCTV – X0002610984 Tape 2 11-02-11 part 1 at 2:26:44).

⁶⁷ BOE V6B Tab 255 at [10] and [16].

the street with Mr Iwakura. Simone appears to pull Mr Moran away from the man in the doorway of the hotel.⁶⁸

78. Mr Iwakura is wearing a blue shirt or jacket. Mr Moran is wearing a cap turned backwards with a red shirt and blue shorts. The group then cross the road and are seen in the footage on the roundabout at the intersection of Keen and Woodlark streets.
79. At about 11.14pm, the group are next depicted on CCTV footage passing through the refuelling area of the Ampol service station on Woodlark Street. This is marked at point "M" on the map which is Exhibit 25. They can be seen in the top of the picture walking from left to right heading in the direction of the Caravan Park. Mr Martin and Simone walked through first and are shortly followed by Mr Moran and Mr Iwakura.⁶⁹

Jamie Vidler

80. Jamie Vidler told police that on 11 February 2005 he was at his tent with a male named Tim, whose surname was possibly Harris, a woman called "Linda", and another man. That man told police that he spent the evening of 11 February 2005 with Mr Vidler and slept in his tent.⁷⁰
81. Mr Vidler stated that he was drinking Bundaberg rum and coke cans and possibly smoked cannabis that evening,⁷¹ and went to bed in the "*early hours of the morning*".⁷²
82. During his evidence at the inquest, Mr Vidler could not recall leaving the Caravan Park after he came back to drink Bundaberg rum around 11:00pm.⁷³ However, CCTV footage depicts Mr Vidler outside the Metropole Hotel at around

⁶⁸ BOE AV files Tab 2 (Lismore Council CCTV – "X0002610984 Tape 2 11-02-11 part 1" at 2:40:12 - 23:41:47).

⁶⁹ BOE AV files Tab 1B (Ampol CCTV Part 2 – "01 - 11-February-2005-h23m12s40" at 00:35 - 00:41).

⁷⁰ BOE V6B Tab 223 at [4].

⁷¹ BOE V5B Tab 184 pp 254-255.

⁷² BOE V5B Tab 184 p 259.

⁷³ T251.40.

11:51pm.⁷⁴ Mr Vidler said he was “*on conditions to not consume alcohol, so I may have still been wanting to have the little drinks on the hidey, hidey from them.*”⁷⁵

Allan and Thomas Green

83. Allan Green told police that he had intended to hitchhike up to Brisbane on Thursday 10 or Friday 11 February 2005, but he wasn't able to get a lift and so he ended up staying in Lismore.⁷⁶ He told police that he saw Mr Vidler on the Friday that Simone went missing and put his bag in Mr Vidler's tent.⁷⁷
84. On the evening of 11 February 2005, Allan Green had been at the 'McKenzie Street Flats' (**the flats**) with a number of other locals.⁷⁸ Allan Green described the day to police as a “*bit of a blur*” as he had been drinking, smoking cannabis and taking speed.⁷⁹ However, Allan Green thinks he and the others he was with went into town from the flats.⁸⁰
85. The flats were about 750 meters east from the corner of Uralba and Dawson Street, marked at point “G” on the Exhibit 25 map. It is likely that the group would have travelled west along Uralba Street as they made their way into town.
86. In his police interview on 21 February 2005, Allan Green told police that he returned to the flats at about 11:00pm or 11:30pm that night and smoked cannabis and passed out. He said that he woke up at about 3:00am or 4:00am and went to see Mr Vidler at his tent.⁸¹ When he arrived, Mr Vidler and a woman were awake in the tent.⁸² Allan Green told police that he stayed in Mr Vidler's tent that night.⁸³

⁷⁴ T251.48 – T252.15.

⁷⁵ T 254.21-22.

⁷⁶ BOE V5B T189A at A54-A61; A65-A66.

⁷⁷ BOE V5B T189A at A68-A70.

⁷⁸ BOE V5B T189A at A91, A 193.

⁷⁹ BOE V5B T189A A94.

⁸⁰ BOE V5B T189A A210.

⁸¹ BOE V5B T189A at Q95.

⁸² V5B T189A at Q237.

⁸³ V5B T189B.

87. Counsel for Mr Moran submitted that Allan Green tried to hitchhike out of town at 3:00am on 12 February 2005.⁸⁴ This is recorded in an investigator's note regarding Allan Green's interview with police, but not in the ERISP itself. As noted above, Allan Green said in his police interview that he woke up at about 3:00am or 4:00am and went to Mr Vidler's tent.
88. Allan denied seeing his brother, Thomas, on the night Simone disappeared and believed he was in Byron Bay.⁸⁵ However, upon review of CCTV footage (discussed below) this assertion is plainly incorrect.
89. The evidence of Thomas Green's whereabouts and whether he was in Lismore on the night of 11-12 February 2005 is inconsistent. During his interview with police on 21 February 2005, Thomas initially stated he left for Byron Bay four to five days before his return,⁸⁶ which would mean that he left Lismore on 10 or 11 February 2005. Later in his interview, however, he stated he was in Byron Bay for about three or four days and did not return until 15 February,⁸⁷ meaning he left Lismore on 11 or 12 February. He also told police that he had hitchhiked to Byron Bay early in the morning, at about 1:00am or 1.30am.⁸⁸ CCTV footage (referred to below) appears to show that he was in Lismore until close to 2:30am on 12 February 2025.

Gavin Parker

90. As noted above, Glen Thompson gave evidence about the whereabouts of Mr Parker on 11 February 2005. According to Mr Thomson, Mr Parker had been at Mr Thomson's house that evening before he headed into Lismore. Mr Parker was seen near the McDonalds on Laurel Avenue (where his car was parked) at around 10:45pm or 11:00pm⁸⁹

⁸⁴ Moran submissions at [63(viii)], p 24.

⁸⁵ V5B T189A at Q247.

⁸⁶ BOE V5B T189C at A78.

⁸⁷ BOE V5B T189C at A53; A200 – A203.

⁸⁸ BOE V5B T189C at A80 – A81.

⁸⁹ T368 – T369; BOE V6A Tab 201.

Return to the Caravan Park

91. CCTV footage from the Ampol service station on Woodlark Street depicts Mr Moran, Ms Suckfüell, Mr Martin, Mr Iwakura and Simone walking through the refuelling area in the direction of the Caravan Park at 11:14pm.⁹⁰ In oral evidence, DS Mackie told the Court that if the group had continued walking from the Ampol station in a direct route to the Caravan Park, they would have arrived back at about 11:20pm.⁹¹
92. Upon returning to the Caravan Park, some of the group continued to drink and smoke cannabis and Mr Iwakura and Mr Martin played a didgeridoo. Police obtained numerous witness statements from residents of the Caravan Park in the surrounding area.
93. Evidence from numerous sources reveals there was an argument among the German group, at the Caravan Park, after which Simone walked away from the campsite. That these two things occurred emerges from piecing together the testimonial accounts given by multiple witnesses – the Germans, Mr Iwakura, and other residents of the Caravan Park – in interviews and statements given to police. However, as noted by Senior Counsel Assisting in his opening address, it is very difficult to reconcile the timings given by all the different witnesses to make a “*single, cohesive, coherent story*”.⁹²

Last sightings of Simone

94. It was submitted by Counsel Assisting that the evidence regarding the last time Simone was seen alive is conflicting and difficult to reconcile.⁹³ There is no objective evidence to prove precisely when the argument at the campsite occurred, nor the exact time that Simone left the campsite, although this must

⁹⁰ BOE AV files Tab 1B.

⁹¹ CAS at [147].

⁹² T9.42-43.

⁹³ CAS at [163].

have been after 11:20pm (based on the CCTV footage from Ampol and the campsite location).

95. Counsel Assisting set out a detailed summary of the evidence given by Mr Iwakura, Mr Moran, Ms Suckfüell and Mr Martin about what happened, and when, after the group returned to the campsite.⁹⁴ None of those accounts perfectly align but they are consistent in referring to an argument, following which Simone walked away from the group.
96. Reading the accounts of the German witnesses together, and in light of the objective CCTV footage, it was submitted by Counsel Assisting that Simone walked away from the campsite between approximately 11:30pm and 11:45pm.⁹⁵ Having regard to those detailed submissions, I accept on balance that this is the most accurate window of time.
97. The family do not appear to dispute the timeframe proposed by Counsel Assisting for when Simone walked away from the campsite, but their submissions diverged from Counsel Assisting's with respect to what happened thereafter.
98. Mr Groth and Dr Repin, independently of each other, both say that they saw a woman matching Simone's description walking outside the Carvan Park, near the roundabout at the intersection of Dawson and Uralba streets, at close to Midnight. If one or both of their accounts is to be accepted, the last time Simone was seen alive by a person uninvolved in her death would be roughly 11:55pm on 11 February 2005. This would mean the group were back at the campsite for around 30 minutes before Simone walked off on her own.
99. Mr Moran submitted that there was a third sighting of Simone outside the Caravan Park late on the evening on 11 February 2005. Ms Rosyln Lesson said she saw a woman meeting Simone's description on the kerb at the northern side of the roundabout at Uralba and Dawson streets, who appeared to be "*wobbly on her*

⁹⁴ CAS at [154]-[161].

⁹⁵ CAS at [162].

feet".⁹⁶ Ms Lesson said this occurred at about 11:15pm to 11:20pm, which cannot be correct, as there is CCTV footage of the German group walking past the Ampol station at 11:14pm and these are at different locations. Mr Moran submitted that this suggests that Ms Lesson's sighting of Simone was later than the time she nominated to police.⁹⁷

100. The family noted in their closing submissions that it is possible that Simone was seen outside the Caravan Park at 11:55pm and then re-entered it, citing the evidence of Anitta Hill to support this theory.⁹⁸
101. Counsel Assisting summarised the evidence of Anitta Hill in their closing submissions as follows.⁹⁹ Ms Hill was staying at the Caravan Park with her father on the night of 11 February 2005. She was one of the last people to see Simone alive. Ms Hill told police that she went to bed at 9:30pm or 10:00pm, although in her statement she said she could not be sure of the time.¹⁰⁰ Sometime after she had gone to bed, she heard didgeridoos being played and the sound was coming from the campervan area.¹⁰¹ She heard an argument between two people partly in English, and partly in another language she did not understand. Ms Hill heard a male and female yelling at each other. In English, the female voice said, "*Leave me alone*". The male voice said, "*Why should I*". A few minutes later she heard male and female voices laughing, and a didgeridoo started playing again.¹⁰²
102. Ms Hill said that the German group were being very noisy and eventually she walked over to their campsite and told them to, "*Fucking shut up or I'll shove the fucking didgeridoo around your heads. Have some consideration for other people.*" She was not aware what the time was when she did this but guessed it to be about 12:30am or 1:00am.¹⁰³ Ms Hill said she saw two white females, two white males and two Asian males at the sitting around the campsite. As Counsel

⁹⁶ Moran submissions at [11]; BOE V6B Tab 318.

⁹⁷ Moran submissions at [12].

⁹⁸ Family submissions at [29].

⁹⁹ CAS at [24] to [26].

¹⁰⁰ BOE V6A Tab 221 at [10].

¹⁰¹ BOE V6A Tab 221 at [11].

¹⁰² CAS at [24].

¹⁰³ BOE V6A Tab 122 at [12]; CAS at [25].

Assisting noted, there is no evidence of there being two Asian males at the campsite.¹⁰⁴

103. The accuracy and relevance of Ms Hill's evidence and the time of her sighting of the group, including Simone, was the subject of submissions by the parties. The family submitted that Ms Hill's evidence is consistent with Mr Groth's in that Simone could have been seen by him outside the Caravan Park at 11:55pm and then she could have returned. They submitted that this is also corroborated by the evidence of Robert and Diana Newby.¹⁰⁵

104. Counsel Assisting summarised the evidence of the Mr and Mrs Newby, as follows. They were staying at the Caravan Park on 11 February 2005. At about 12:30am, Mr Newby heard a male shouting at the top of his voice in German. He observed a male leaning into the door of the caravan who was irate and agitated. The male appeared to be abusive but as the male was speaking in German, he did not know what was being said. Diana Newby also heard what she described as aggressive shouting in German.¹⁰⁶

105. Mr Moran did not address the evidence of Ms Hill or the Newbys in submissions.

106. As I have indicated, the evidence regarding the last sightings of Simone was the subject of detailed submissions. It is examined further below, noting it is relevant to Issue 1 (the time of Simone's death) and Issue 2 (where Simone died).

Events between 12 and 17 February 2005

107. Counsel Assisting submitted that there is no evidence that Simone returned to the campsite on 12 February 2005 after she walked away from the group.¹⁰⁷ As

¹⁰⁴ CAS at [25].

¹⁰⁵ Family submissions at [55] and [57].

¹⁰⁶ CAS at [57].

¹⁰⁷ CAS at [162]; T76.1-3.

noted above, the family submitted that she may have returned, and the case theory of DS Mackie also hinged on her returning.

Searches for Simone

108. Mr Moran, Mr Martin and Ms Suckfüell told police that, a short time after Simone walked away from the campsite, when she did not return, Mr Martin and Ms Suckfüell searched for her while Mr Moran stayed back in case she returned. After an initial search of around 15 to 30 minutes was unsuccessful, Mr Martin and Ms Suckfüell undertook a second, longer search which lasted an hour or more. Mr Moran again remained at the campsite.¹⁰⁸
109. The approximate routes of the searches undertaken by Mr Martin and Ms Suckfüell are depicted on a map which was tendered at the inquest.¹⁰⁹ In total, their searches for Simone covered areas inside the Caravan Park, the outer perimeter of the Caravan Park, a nearby cricket field, and the outer perimeter of the Continental Club across Uralba Street. Mr Martin also searched public toilets (which were locked)¹¹⁰ on Dawson Street and returned to the Gollan Hotel in search of Simone.
110. After the second search failed, the Germans fell asleep. When they awoke later in the morning, Simone had still not returned. They packed up their campsite and parked the campervan outside of the Caravan Park.

CCTV in Lismore: Midnight to 2:30am

111. At 12:29am on 12 February 2005, Allan and Thomas Green are depicted in CCTV footage outside the Metropole Hotel where they appeared to be refused entry.¹¹¹

¹⁰⁸ CAS at [29].

¹⁰⁹ Exhibit 25.

¹¹⁰ BOE V7 Tab 341.

¹¹¹ BOE AV Files Tab 1B X0002610984 Tape 2 at 3:59:00

Thomas is wearing a black and white T-Shirt. Allan is wearing an orange shirt with the number 69 on the back.

112. At 12:40am Allan and Thomas Green are seen near the Metropole Hotel. They again appear to be refused entry and remain in the vicinity until about 12:47am.¹¹²

113. The Green brothers are seen again in footage in town between 12:40am and 1:12am. At 1:14am, the brothers are outside a taxi, and Thomas Green is seen leaning in the door.¹¹³ This is the last time that Allan Green is seen on CCTV footage that night.

114. Thomas Green is regularly depicted in the Lismore Council CCTV footage taken from the roundabout at the intersection of Woodlark and Keen Street, until about 2:24am.¹¹⁴ It is around that time that he is spoken to by two female police officers.

Simone's black top found

115. At about 5:30am on 12 February 2005, Simone's black singlet top was found by Mr Lyall Margetts while he was on his morning walk. Mr Margetts saw the top on the roadway of Uralba Street and left it on a nearby guardrail in case someone recognised it.¹¹⁵ The top was undamaged.¹¹⁶

116. The black singlet top is the only item of clothing worn by Simone on the night of her disappearance that was ever found.

Missing person's report and early investigations

117. At about 10.45am on 12 February 2005, Mr Moran and Mr Martin attended Lismore Police Station and reported Simone missing to Senior Constable Peta

¹¹² BOE AV Files Tab 1B X0002610984 Tape 3 at 7:44-13:56

¹¹³ BOE AV Files Tab 1B X0002610984 Tape 3 at 39:10-40:23.

¹¹⁴ BOE AV Files Tab 1B (X0002610984 Tape 3 at 1:10:35-1:12:35; 1:15:36-1:16:20; 1:17:56-1:16:20; 1:41:25-1:44:06).

¹¹⁵ BOE V7 Tab 61.

¹¹⁶ T47.37-39.

Murphy (**SC Murphy**).¹¹⁷ Mr Moran told SC Murphy about an argument that had occurred between him and his sister the night prior; and he also told police that, after the argument, Simone had “*got upset and walked off towards Dawson Street.*”¹¹⁸ What he told police on this occasion is relevant to Issue 5 (the significance of Mr Moran’s lies).

118. Mr Moran had further interactions with police throughout the day on 12 February 2005, including with Senior Constable Darren Wilson (**SC Wilson**). SC Wilson had been conducting a search for Simone in an open storm water drain starting near Oaks Oval and walking in the direction of Woodlark Street and the Caravan Park. After searching the drain, he saw the white campervan parked near the corner of Dawson and Zadoc streets. There he spoke with Mr Moran and asked if he could look inside the campervan; he also asked to see Simone’s credit cards, as police had been told she had left the campsite with no money. Mr Moran allowed SC Wilson to search the campervan and showed him the cards. Mr Moran denied to SC Wilson that he or Simone used cannabis.¹¹⁹
119. By the evening of 12 February 2005, the NSWPF had mobilised a number of search teams comprising both police officers and SES volunteers. A media release containing a description and photo of Simone was also prepared, with the assistance of Mr Moran.¹²⁰ At around 10:00pm that evening, Mr Moran participated in his first recorded interview with NSW Police.¹²¹
120. On 13 February 2005, while searches for Simone continued, Inspector Glenn Gilbert called Mr Moran back to Lismore Police Station and told him that Simone’s parents needed to be informed that she was missing. Mr Moran spoke to Simone’s father, Gustav Strobel, and was said to have “*displayed extreme emotion*” while speaking to Mr Strobel for some ten minutes in German.¹²²

¹¹⁷ BOE V2 Tab 63.

¹¹⁸ BOE V2 Tab 63.

¹¹⁹ BOE V2 Tab 35.

¹²⁰ BOE V2 Tab 34.

¹²¹ BOE V4A Tab 132.

¹²² BOE V2 Tab 34.

121. Between 14 and 16 February, a series of police investigations ensued, including canvases of the parklands, creeks and drains surrounding the Caravan Park conducted by the NSWPF dog unit, diving unit, rescue squad and SES volunteers. The nearby Wilson and Richmond Rivers were searched for kilometres. Mr Martin and Ms Suckfüell made formal statements to police. CCTV footage was gathered from locations around Lismore CBD, including from the Caltex and Ampol service stations and the Council CCTV cameras, some of which depicted Simone in the hours before she was last seen.
122. A more formal search of the campervan was also conducted by Senior Constable Gary Kennedy (**SC Kennedy**) and Detective Senior Constable Beresford on 14 February, and a number of items including items likely to contain Simone's DNA were collected.¹²³ Police made several other enquiries, including into possible banking and internet activity by Simone.
123. On 15 February, after being shown CCTV footage of Simone leaving the Gollan Hotel by police, Mr Moran gave a statement confirming the clothing she was wearing when she disappeared, correcting what he had told police in his recorded interview three days earlier. After seeing the CCTV, Mr Moran confirmed that Simone was wearing a black singlet top, a red 'Roxy' brand skirt with a white underlay, and white slacks underneath the skirt.¹²⁴ A media release was issued on 15 February 2005 including this description of Simone.¹²⁵ Mr Moran also provided his and Simone's diaries to police on this date, and their contents were copied.¹²⁶
124. On 16 February, Mr Martin participated in a recorded interview with police, during which he drew a map depicting the set-up of the campsite. Mr Martin marked on this map the direction in which he says Simone walked off from the group. The

¹²³ BOE V2 Tab 93.

¹²⁴ BOE V4A Tab 133.

¹²⁵ BOE V8 Tab 403B.

¹²⁶ BOE V2 Tab 71 at [39].

direction of Simone's path, as indicated by Mr Martin, was past the toilet block and towards the Caravan Park entrance on Dawson Street.¹²⁷

125. In their early accounts to police during this period – after Simone went missing but before her body was found – Mr Moran, Mr Martin and Ms Suckfüell gave versions of events broadly consistent with each other on key topics. As noted in Counsel Assisting's submissions, the Germans informed the police that:¹²⁸

- a. there were no problems with the relationship between Simone and Mr Moran;
- b. the group (including Simone) had each consumed a handful of beers (three or four) at the Gollan Hotel the evening prior;
- c. none of them had consumed illicit drugs; and
- d. Simone had walked off from the campsite after an argument had broken out between Mr Moran and Ms Suckfüell about family matters.

126. Later accounts given to police by those three witnesses deviated from this in some significant respects, which is relevant to my examination of the issues below, in particular Issue 5 when I consider the significance of Mr Moran's lies.

Discovery of Simone's body

127. Shortly after 9:00am on 17 February 2005, Simone's naked body was found by police dog handler, Senior Constable Timothy Brown (**SC Brown**). Counsel Assisting summarised the evidence regarding the discovery of Simone's body as follows:¹²⁹

¹²⁷ BOE V5A Tab 160 and Tab 166A.

¹²⁸ CAS at [71].

¹²⁹ CAS at [37].

Senior Constable Brown was walking around the area of the Continental Music, Sports and Recreation Club on the corner of Dawson Street and Uralba Street approximately 90 metres from the Lismore Caravan Park. Senior Constable Brown perceived a smell of decaying flesh coming from an area bounded by wire fencing. Senior Constable Brown noticed a hole in the wire fence about a metre off the ground and entered through it. Inside the fence line of the club were three Phoenix Date Palms clumped together. Simone's body was hidden under the canopy of two of the palm trees. A number of palm fronds were placed over her body in an attempt to conceal it. Simone's body was completely unclothed and in an advanced stage of decomposition.

128. Strike Force Howea was declared and a crime scene was established.

Crime scene and forensic evidence

129. The location where Simone's body was found is marked "E" on the Exhibit 25 map. The area declared a crime scene included the fenced area inside of the Bocce Court and the passageway between the Bocce Court and the tennis courts.¹³⁰ Detective Sergeant Michael McFarlane produced a crime scene sketch, which was shown at the hearing.¹³¹

130. Due to the location of Simone's body being inside the fenced Bocce Court, it is likely that she was passed through a hole in the wire fence, which had a number of sharp protruding wires. DNA profiles consistent with Simone's DNA were recovered from a number of exhibits, including from a swab taken from the wire fence.¹³²

131. Forensic Entomologist, Dr James Wallman, conducted a forensic assessment of insect specimens collected from Simone's body in order to date her time of death.

¹³⁰ BOE Vol 2 Tab 88 at [14].

¹³¹ BOE Vol 2 Tab 88A p1.

¹³² BOE V3 Tab 109, p. 93; CAS at [44].

Dr Wallman concluded that Simone had died sometime during the two-day period following her last sighting on 11 February 2005.¹³³

Hairs found on the wire fence

132. Two hairs were recovered from the crime scene. ‘Hair A’ was located on the tennis court fence adjacent to the entrance to the bocce club fence; and ‘Hair B’ was located on a piece of wire in the opening of the fence through which Simone’s body is likely to have passed.¹³⁴ Due to the absence of roots, the hairs were deemed unsuitable for nuclear DNA analysis.¹³⁵
133. A morphology comparison of Hair A and Hair B was conducted by forensic scientist Jane Taupin of the Victorian Forensic Services Centre in July 2005. Ms Taupin described Hair A as being “*a darker brown than the natural brown colour of [Simone’s] hair sample*” but also noted it was small in length and not sufficiently distinguishable from Simone’s hair, such that any comparisons were “*inconclusive*”. Ms Taupin described Hair B as “*similar in characteristics to some of the regions of [Simone’s] hair samples*”, and noted that it could have come from Simone, but she was unable to draw further conclusions as to the origins of the sample, noting it was not a complete hair.¹³⁶
134. Mitochondrial testing on the hairs (and other crime scene samples) was conducted in Germany in 2012.¹³⁷ In this process, the mtDNA profiles of Simone’s mother, Mr Moran, Ms Suckfüell and Mr Martin were identified and compared to the crime scene samples. The German mtDNA testing on Hair B did not yield a profile, and DS Mackie gave evidence at the inquest that the testing process destroyed that sample.¹³⁸ The mtDNA testing conducted on Hair A did yield a “*mitochondrial haplotype of the haplogroup U7*”, which did not match any person

¹³³ BOE V3 Tab 101, pp. 15-19; CAS at [39];

¹³⁴ CAS at [38].

¹³⁵ BOE V3 Tab 110, p. 99; CAS at [38].

¹³⁶ BOE V3 Tab 110, p. 99.

¹³⁷ BOE V3 Tab 114, p. 129.

¹³⁸ T46.10-22.

then.¹³⁹ It was submitted that the mtDNA profile found on Hair A has still not been matched to any person.¹⁴⁰ I address this matter further below.

Fibres found on the wire fence

135. At the crime scene, “*yellowish*” and blue fibres were also found on the fence line.¹⁴¹ None of these fibres were found to match Simone’s black top, nor were they a colour consistent with the clothes Simone was wearing when she disappeared.¹⁴²

136. The fibres were compared against seized items of clothing belonging to Mr Moran, Ms Suckfüell, and Mr Martin.¹⁴³ The analysis indicated the yellowish fibres originated from a single source as did the blue fibres. However, neither matched with the seized clothing.¹⁴⁴ While a jacket, referred to by DS Mackie as “*the 69 jacket*” was seized, from the available evidence, it does not appear that it was tested against the fibres found at the crime scene.¹⁴⁵

137. It was submitted by Mr Moran that, in the early hours of the morning on 12 February 2005, Allan and Thomas Green were seen in CCTV footage to be wearing “*partly yellow shirts*”.¹⁴⁶

Simone’s black top

138. On 8 February 2019, German police advised DS Mackie that further analysis of the black top had identified a DNA profile consistent with Simone’s, in addition to an unknown male profile.¹⁴⁷ The unknown male profile, later referred to by the

¹³⁹ BOE V3 Tab 114, p. 138.

¹⁴⁰ Moran submissions at [68]; CAS in reply at [11].

¹⁴¹ BOE V3 Tab 121.

¹⁴² CAS at [41].

¹⁴³ BOE V3 Tab 122, p. 214; BOE Vol 3 Tab 123, p. 222.

¹⁴⁴ BOE V3 Tab 122, p. 215; BOE Vol 3 Tab 123, p. 223.

¹⁴⁵ T164.29-41.

¹⁴⁶ Moran submissions, p. 24; BOE AV files (Lismore City Council CCTV at 12:45, 1:12, 1:43, 2:02, 2:22).

¹⁴⁷ BOE V9 Tab 500A; BOE V9 Tab 501, p. 291; CAS at [45].

NSW Forensic and Analytical Science Service (**FASS**) as ‘individual D’,¹⁴⁸ was located on the outside of Simone’s top. I will refer to this person as ‘Unknown Male D’.

139. The DNA profile of Unknown Male D has been compared with (and excluded as a match to) the DNA profiles of Mr Margetts (who found the top on 12 February 2005), Mr Moran, Ms Suckfüell, Mr Martin, Mr Vidler, Allan Green, Thomas Green, Mr Iwakura and Mr Parker.¹⁴⁹ Mr Moran submitted that the evidence does not reveal that Gavin Parker has been excluded as a match to Unknown Male D.¹⁵⁰ However, in reply to this, Counsel Assisting submitted that a buccal swab collected from Mr Parker in 2024 and analysed by FASS revealed he is a match to ‘male C’. Male C is a previously unknown DNA profile found on a foot bandage belonging to Mr Parker; the foot bandage had been seized by police and tested by FASS back in 2005. Mr Parker is not therefore a match to Unknown Male D in this investigation.¹⁵¹ I accept this submission.
140. As at November 2024, the Unknown Male D profile had been searched against the national DNA database and not returned any results.¹⁵² As was noted in submissions, the available evidence does not however establish that the profile of Unknown Male D has been compared to other potential suspects referred to in the NSWPF brief (but which had been excluded by the NSWPF), which leaves open the possibility that further analysis could be conducted in future. I address this matter further below.¹⁵³

Palm fronds

141. As noted above, Simone’s naked body was found underneath the canopy of two palm trees and was concealed under a number of palm fronds. Detective Sergeant McFarlane, crime scene examiner, believed the palm fronds covering

¹⁴⁸ Exhibit 3, p. 2.

¹⁴⁹ BOE V3 Tab 109; BOE V9 Tab 502; Exhibit 3; CAS at [10].

¹⁵⁰ Moran submissions at [67].

¹⁵¹ CAS at [10].

¹⁵² Exhibit 3; CAS [45].

¹⁵³ Moran submission at [67]; CAS in reply at [10].

Simone's body had been broken off rather than cut with an instrument.¹⁵⁴ He gave evidence in the previous inquest that he had tried to break off a palm frond himself and it took quite a lot of effort – about 30 seconds to break off one palm frond due to its fibrous nature.¹⁵⁵

142. The palm fronds were seized and examined, however, DNA testing on them by FASS in 2005 was unsuccessful.¹⁵⁶ In 2012, further testing, by way of mtDNA analysis, was conducted in Germany on samples taken from the palm fronds. Initially, one of the samples analysed was found to contain an mtDNA profile consistent with the mtDNA of Mr Moran, Ms Suckfüell, and a German investigator, Roland G, who had handled the exhibit.¹⁵⁷
143. In 2019, a further expert report was obtained by NSW Police from Associate Professor Jeremy Austin, which considered issues of apparent high levels of contamination by forensic officers and the inability to distinguish contamination by Roland G from crime-scene contribution by Mr Moran and Ms Suckfüell.¹⁵⁸
144. A further analysis was prepared by German investigators in May 2019. This report recognised the inability to conclude the sample matched Mr Moran or Ms Suckfüell, but concluded that, in all the circumstances, the mtDNA result *“[was] not a contamination by the forensic officer, but rather a match to the sequence of the Suckfüell siblings.”*¹⁵⁹
145. To resolve the ambiguity in the mtDNA results, after a fresh inquest was directed to be held, Coroner MacMahon instructed NSW Police to obtain a complete mapping of the genome of the palm frond sample and Mr Moran's DNA. In June 2021, Mr Moran voluntarily provided a sample of his DNA for this purpose, which was then analysed in Innsbruck, Austria.¹⁶⁰ A report of this analysis dated June

¹⁵⁴ BOE V1A Tab 19, p. 139.

¹⁵⁵ T11.40-44; BOE V1A Tab 19, p. 139.

¹⁵⁶ BOE V3 Tab 109, p. 93.

¹⁵⁷ BOE V3 Tab 114, p. 13 (see sample 7.02); CAS at [46].

¹⁵⁸ BOE V3 Tab 119, p. 169; CAS at [47].

¹⁵⁹ BOE V9 Tab 506, p. 324; CAS at [48].

¹⁶⁰ BOE V1B Tab 30C, pp. 184-185; CAS at [49].

2022 confirmed that the mtDNA sample found on the palm fronds was not consistent with either Mr Moran or Ms Suckfüell.¹⁶¹

Inner perimeter

146. The area immediately outside of the crime scene was referred to by police as the 'inner perimeter'. The Court was told this was an area where locals used to drink late at night, and where various bits of rubbish were retrieved after Simone's body was found. This included blood-stained paper towel and a tissue on which DNA profiles were found.¹⁶² Shortly before the hearing, FASS ran a 'familial DNA search' and found a match to a relative of the person whose DNA profile is on the paper towel.¹⁶³ However, as noted by Senior Counsel Assisting, the significance of objects or items found outside the crime scene is probably of very limited value, compared to anything found inside the crime scene, due to the difficulty of getting into the fenced area and the fact that many locals used to frequent and drink in the inner perimeter.¹⁶⁴

Campervan

147. As noted above, on 12 February 2005, after Simone went missing but before her body was found, SC Wilson spoke with Mr Moran outside the Caravan Park by the parked campervan in which he and Simone had been staying. The police officer asked if he could look inside the campervan, and Mr Moran consented.¹⁶⁵

148. A formal search of the campervan was not conducted until 14 February 2005 by SC Kennedy. During that search, a number of items were seized.¹⁶⁶ Neither SC Wilson nor SC Kennedy recorded any observations of damage or forensic evidence consistent with Simone having been killed inside the van;¹⁶⁷ and

¹⁶¹ BOE V3 Tab 120D, p. 129.

¹⁶² BOE V3 Tab 108 and Tab 109.

¹⁶³ Exhibit 4.

¹⁶⁴ T16.17-27.

¹⁶⁵ BOE Volume 2 Tab 35.

¹⁶⁶ BOE V2 Tab 94.

¹⁶⁷ T11.11-21.

DS Mackie confirmed at the hearing that no items were found inside the van that would implicate Mr Moran.¹⁶⁸

Autopsy reports and expert evidence

149. The brief of evidence contains a substantial volume of expert evidence commissioned both in Australia and in Germany. A number of topics and issues arising from the expert evidence were explored during the fresh inquest.

Cause of death

150. The morning after Simone's body was found, Australian forensic pathologist Dr McCreath conducted an autopsy. In her post-mortem report dated 19 April 2005, Dr McCreath concluded that the direct cause of Simone's death was undetermined.¹⁶⁹

151. A further autopsy was conducted by Professor Patzelt in Wurzburg, Germany on 2 March 2005, after Simone's body was repatriated. Professor Patzelt was likewise not able to determine a cause of death.¹⁷⁰

152. Three supplementary autopsy reports were thereafter commissioned: in 2008 (from Professor Patzelt with Dr B. Babel) and 2011 (from Professor Patzelt with Professor Bohnert); and in 2021 (from Dr McCreath).¹⁷¹

153. Neither Professor Patzelt nor Dr McCreath gave evidence at the previous inquest, but Dr McCreath did give evidence at the fresh inquest.

154. In her oral evidence, Dr McCreath told the Court that there was no obvious injury or pathological reason to explain Simone's death. Her reference to "*pathological reason*" means there was no obvious natural disease to explain why Simone died.

¹⁶⁸ Moran submissions at [21](v); T48.23-36.

¹⁶⁹ BOE V1A Tab 5.

¹⁷⁰ BOE V1A Tab 6.

¹⁷¹ BOE V3 Tab 104, Tab 105 and Tab 205B.

Dr McCreath did however note that, “*Simone’s body was in a state of decomposition which makes determining some things more difficult*”.¹⁷²

Evidence of injury

155. The fresh inquest examined questions around the nature of injuries visible on Simone’s body at autopsy. In her first report, Dr McCreath had noted an area of “*diffuse congestion*” (in lay terms, redness)¹⁷³ over Simone’s left masseter (jaw) muscle and left sternocleidomastoid (neck) muscle.¹⁷⁴ Examination of those tissues showed extensive decompositional change, such that Dr McCreath said diagnosing a haemorrhage antemortem (in lay terms, bleeding or injury sustained before death) was not possible.¹⁷⁵
156. In her supplementary expert report, commissioned by my assisting team in 2021, Dr McCreath again said that due to the extent of the decompositional change, she was unable to say if this was an area of “*soft tissue haemorrhage (i.e. a bruise)*” or an area where the “*blood has pooled after death*”, becoming discoloured following the breakdown of the walls of the blood vessels and red blood cells.¹⁷⁶
157. At the hearing, Dr McCreath was taken by Senior Counsel Assisting to some of the autopsy photos. When shown a photo of Simone's throat and lower jaw, she confirmed the reddening of tissue over the left jaw, but again she could not say whether this was due to “*post-mortem pooling*” or injury.¹⁷⁷ She explained the process of post-mortem pooling which occurs as the body breaks down. As Dr McCreath could not determine the cause of the reddening, she ultimately could not say whether Simone suffered an injury to her lower jaw or throat.¹⁷⁸

¹⁷² T381.10-18.

¹⁷³ T385.10-12.

¹⁷⁴ BOE V1A Tab 5, p. 19.

¹⁷⁵ BOE V1A Tab 5, p. 21.

¹⁷⁶ BOE V3 Tab 105B, p. 68.

¹⁷⁷ T381.37-46.

¹⁷⁸ T382.1-9.

158. Later in her evidence, Dr McCreath was asked by Mr Game SC about the difference between her opinion on this topic and the views contained in a supplementary autopsy report authored by Professor Patzelt and Professor Bohnert in Germany in December 2011. Whereas Dr McCreath had reported that the reddening revealed diffuse congestion over the left jaw muscle, the German report suggested this was indicative of injury and was the result of mechanical force.¹⁷⁹ Dr McCreath informed the Court that she was not prepared to go as far as the German pathologists.¹⁸⁰
159. Dr McCreath also told the Court that she could see no evidence that Simone was strangled or asphyxiated; and no evidence of any pressure on Simone's neck before she died.¹⁸¹ In saying this, she clarified that the absence of forensic evidence of injuries does not mean that Simone was not strangled or asphyxiated.¹⁸²

Scratch-like abrasions

160. Dr McCreath's autopsy report noted a large number of abrasions on Simone's body, including several linear, scratch-like abrasions on her left and right thighs.¹⁸³ Dr McCreath was asked about these abrasions in oral evidence, and she confirmed her view that none of those injuries were likely to have caused Simone's death. She said they may have been caused by decomposition post-mortem, including by maggots and insects, or they could have been superficial antemortem injuries. While she ultimately could not conclude whether the abrasions occurred before or after death, she confirmed they could have been caused by "*a sharpish object going over the surface of the skin*", which could have been a barbed wire.¹⁸⁴

¹⁷⁹ BOE V3, Tab 105, p. 55.

¹⁸⁰ T391.33-44.

¹⁸¹ T382.11-17.

¹⁸² T382.21-32.

¹⁸³ BOE V1A, Tab 5, pp. 17-19.

¹⁸⁴ BOE V1A, Tab 5, pp. 17-19; and T383 – T384.

161. On the topic of abrasions, Dr McCreath was again asked about her views compared to those in the 2011 German autopsy report. The German pathologists had concluded that, given the absence of deep lacerations to Simone's trunk and lower extremities, it was more likely that two or more people were responsible for passing her body through the fence, if she was unclothed.¹⁸⁵ Dr McCreath said she would not make that conclusion.¹⁸⁶
162. Dr McCreath was asked specifically about this passage the German report: "*If the corpse was unclothed when moved, the pattern of injury would most likely suggest the involvement of at least two persons. If the corpse was clothed, movement by a single person is also conceivable*".¹⁸⁷ In response to this, Dr McCreath said she would not go as far as the German pathologists and she could not make a decision about how Simone was moved based on the evidence found.¹⁸⁸
163. This evidence is relevant as it bears upon the likelihood of someone acting alone, or two or more people acting together, in passing Simone through the wire fence and concealing her body. Submissions made on this point are addressed below.¹⁸⁹

'Defence injuries' and sexual motive

164. Dr McCreath was questioned on certain assertions made in the Illingsworth report, referred to above.¹⁹⁰ The Illingsworth report concluded that the offender appears to have been known to Simone. This was said to be due to a number of factors involving her injuries and the concealment of her body.¹⁹¹

¹⁸⁵ BOE V3 Tab 105, p. 56.

¹⁸⁶ T390.38-43.

¹⁸⁷ BOE V3 Tab 105, p. 57.

¹⁸⁸ T391.3-11.

¹⁸⁹ CAS at [166]-[176]; Moran submissions at [35]-[38]; Family submissions at [44]-[50].

¹⁹⁰ BOE V3, Tab 128.

¹⁹¹ BOE V3, Tab 128 at [187].

165. DS Illingworth is not a forensic pathologist but was, as at the time of her report in July 2005, a Detective Sergeant within the Forensic Services Group of the NSWPF. The Illingsworth report was qualified on its opening page, in that it acknowledged the vast diversity of human behaviour and expressly stated that it was “*not a substitute for a thorough, well-planned investigation, nor should it be considered all-inclusive.*”¹⁹² The report went on to state as follows:¹⁹³

Firstly, the absence of defence type injuries or contusions to her hands, arms, legs, and feet reveals she did not fight against her attacker. This suggests she did not recognise the danger she was in. This lack of perceived threat was probably the result of Simone knowing and trusting her attacker and therefore not suspecting the attack ...

166. Dr McCreath was asked about the above excerpt from the Illingworth report and the factual foundations behind that conclusion. Dr McCreath said does not use the term or adopt the concept of ‘defence injuries’, but explained this phrase is generally used where there are injuries to parts of the body you would use if you were defending yourself – portions of the hands and arms, and maybe the shins.¹⁹⁴

167. When asked if the abrasions on Simone’s thighs could be evidence that she tried to defend herself, Dr McCreath replied (as she had previously stated in her evidence) that the abrasions could have occurred antemortem or postmortem, and they neither prove nor disprove that Simone defended herself. At the same time, Dr McCreath confirmed that the absence of injuries neither proves nor disproves that Simone defended herself. Ultimately, Dr McCreath could not say whether Simone defended herself or not.¹⁹⁵

168. Dr McCreath was also asked about the absence of evidence of injuries to Simone’s vagina and genital area. She was taken to autopsy photos, which she

¹⁹² BOE V3 Tab 128 at [4].

¹⁹³ Ibid, at [187].

¹⁹⁴ T385.45 – T386.10.

¹⁹⁵ T386.10-40.

said showed extensive maggot activity and multiple defects due to the maggots. When asked by Senior Counsel Assisting, “*Does the absence of any injury to the vagina or the genital area prove that there was no sexual assault?*”, Dr McCreath replied, “*No. You can have a sexual assault without causing injuries.*”¹⁹⁶ Accordingly, Dr McCreath did not have an opinion as to whether Simone was sexually assaulted, before or after her death; she could not tell one way or another.¹⁹⁷

169. Mr Moran made submissions on further evidence in the autopsy reports which he said suggested a sexual motive for Simone’s murder, namely evidence of dried abrasions around her nipples and breasts, possibly arising from tangential force.¹⁹⁸ Dr McCreath was also asked about this at the hearing. This evidence will be discussed below when I consider Issue 3, whether Simone’s killer had a sexual motive.

Blood analysis

170. Simone’s blood was analysed by a forensic pharmacologist postmortem. She was recorded to have a blood alcohol concentration (**BAC**) of 0.286g/100ml; and a delta-9-THC acid (cannabis) reading of 0.029 mg/L. It was noted that the postmortem BAC reading was highly unlikely to be a true indication of Simone’s BAC at the time of her death; and the THC reading suggested it was unlikely Simone consumed a significant dose of cannabis before she died.¹⁹⁹

Key findings at previous inquest

171. Section 83(7) of the Act provides, inter alia, that the findings on a fresh inquest may be expressed to be “*in addition to or in substitution for*” the findings on any previous inquest.

¹⁹⁶ T387.5-19.

¹⁹⁷ T387.21-30.

¹⁹⁸ Moran submissions at [19].

¹⁹⁹ BOE V3 Tab 103 at [10]-[11]

172. Counsel Assisting, the family and Mr Moran each made submissions in relation to the findings made by Coroner MacMahon. However, in several key respects, they were not in agreement as to whether I should depart from or agree with his Honour's findings.
173. Counsel Assisting briefly summarised what occurred at the previous inquest, which commenced on 9 July 2007, and that procedural history is not controversial.²⁰⁰ I briefly repeat that background. Three NSW police officers, including the original Officer in Charge, a Crime Scene Officer and the (then) NSW Homicide Squad Inspector gave evidence, along with Mr Martin. A nine-volume brief of evidence was tendered. Mr Martin travelled to Australia to participate in the previous inquest voluntarily and to assist NSW police with furthering their investigations (after having returned to Germany in 2005).²⁰¹
174. Counsel Assisting summarised Mr Martin's evidence at the previous inquest as follows:²⁰²
- [Mr Martin] admitted that he had not told the truth about the health of [Mr Moran] and Simone's relationship, as well as the group's level of intoxication and cannabis use. He stated that [Mr Moran] had instructed him and [Ms Suckfüell] to lie to police prior to the first report on the morning of 12 February 2005.
175. Coroner MacMahon found Mr Martin to be an honest and credible witness. His Honour accepted his evidence, notably the evidence he gave about Mr Moran's *"efforts, both before and after [Mr] Martin and [Ms] Suckfuell spoke to the police, to maintain the false story and the apparent continuation of those efforts on their return to Germany."*²⁰³

²⁰⁰ CAS at [57]-[64].

²⁰¹ AV files Tab 5.

²⁰² CAS at [58].

²⁰³ BOE Vol 1A Tab 18 p117.

176. Coroner MacMahon adjourned the inquest and wrote to Mr Moran and Ms Suckfüell inviting them to also return to Australia to participate in the inquest. Both declined.²⁰⁴

177. Coroner MacMahon delivered findings on 16 October 2007. His Honour's key findings were:²⁰⁵

- a. It was more probable than not that Simone died in the early hours of the morning of 12 February 2005.
- b. It appeared likely that Simone was killed in the vicinity of the Caravan Park and then taken to the wire fence with her clothing removed at or about that time.
- c. The evidence establishes that sexual or other forms of gratification were not the motivation for Simone's death, and Simone was not sexually assaulted.
- d. The evidence as to the direct cause of Simone's death was "*ambivalent*". While acknowledging that the Australian and German forensic pathologists (Dr McCreath and Professor Patzelt) had been unable to determine a cause of death, his Honour accepted the suggestion by Detective Illingsworth that the most likely cause of death was "*suffocation or smothering asphyxia*", concluding that "*in the absence of any other rational explanation, Detective Illingsworths' (sic) suggestion has considerable merit.*"

178. The formal findings entered by Coroner MacMahon were:

I find that Simone Monika Strobel died, at Lismore, on or about 12 February 2005.

I am also satisfied that the direct cause of Simone's death was more likely than not

²⁰⁴ CAS at [59].

²⁰⁵ BOE V1A Tab 18; summarised in CAS at [60].

suffocation or smothering asphyxia. I am also satisfied that Simone's death was caused by the action of a person or persons unknown.

179. Counsel Assisting's submissions directed me to how the evidence before the fresh inquest lends itself to certain findings that depart from the 2007 findings, including with respect to the formal findings required by s 81 of the Act. I deal with those submissions later where I analyse the key issues explored in the fresh inquest and set out my formal statutory findings.
180. Simone's family do not agree with Counsel Assisting in several key respects and believe that the previous inquest findings should remain. The family expressed "*considerable reservations about many of Counsel Assisting's submissions*";²⁰⁶ and urged that I would be "*reluctant to set aside the views of police investigators and the findings of Coroner MacMahon*".²⁰⁷ In particular, the family submitted that his Honour's finding that there was "*a very strong suspicion*" that Mr Moran and maybe Ms Suckfüell had an involvement in the circumstances that led to Simone's death should remain.²⁰⁸
181. Mr Moran submitted that all of my findings should be in substitution for the findings made in 2007 per s 83(7) of the Act; and that the formal findings proposed by Counsel Assisting are the only available findings on the evidence.²⁰⁹ In addition, Mr Moran submitted that I should expressly substitute or set aside Coroner MacMahon's finding that there was a "*very strong suspicion*" that he was involved in Simone's death, noting that such a finding would now be prohibited under s 81(3) of the Act.²¹⁰ Counsel Assisting also submitted that a finding of that nature is likely to contravene that provision, which prohibits me from recording any finding that indicates or in any way suggests that an offence has been committed by a person.²¹¹ I accept that such a finding would now be prohibited

²⁰⁶ Family submissions at [6].

²⁰⁷ Family submissions at [9], [11] and [69].

²⁰⁸ Family submissions at [60].

²⁰⁹ Moran submissions at [2].

²¹⁰ Moran submissions at [3].

²¹¹ CAS at [4].

and, noting the conclusions that I reach elsewhere in these findings, I also express my disagreement with Coroner MacMahon in relation to that finding.

182. I have also determined under s 83(7) of the Act that my findings are to be in substitution for the findings on the previous inquest.

Key issues considered at fresh inquest

183. Counsel Assisting's closing submissions centred around four key issues said to arise considering the totality of the evidence before me against the findings of the previous inquest. Those issues are:

- a. Issue 1: What was the time of Simone's death?
- b. Issue 2: Where did Simone die?
- c. Issue 3: Did Simone's killer have a sexual motive?
- d. Issue 4: Is a known person responsible for Simone's death?

184. I accept those four issues are being the central issues for determination in the fresh inquest. While the interested parties did not necessarily organise their closing submissions around those four central issues, I have approached the task of analysing and assessing the evidence and submissions according to the structure set out by Counsel Assisting, incorporating other submissions where they logically fall.

185. Where additional issues were raised by the parties in closing submissions that did not fit into those categories, to the extent I felt it necessary, I have considered and addressed those as standalone issues in these findings.

Issue 1 – What was the time of Simone’s death?

186. Coroner MacMahon found that it was more probable than not that Simone died in the early hours of the morning of 12 February 2005.²¹² While the issue of time of death was explored at the fresh inquest, it was not suggested by anyone that a finding inconsistent with his Honour’s is capable of being made. Ultimately, Counsel Assisting submitted that a more precise time period could be borne out on the evidence, for the reasons which follow.

Sightings evidence

187. The evidence of the last sightings of Simone, which is relevant to the question of the time she died, was the subject of detailed submissions by Counsel Assisting, the Strobel family and Mr Moran.

188. As previously noted, the sightings evidence is conflicting and difficult to reconcile. Many witnesses in and around the Caravan Park vicinity gave police statements with timings of when they saw or heard things on the night of 11 to 12 February. I accept the submission by Counsel Assisting that those witnesses may have been honest but mistaken or lacking precision,²¹³ which is unsurprising.

189. Counsel Assisting’s submissions paint the following timeline. Based on the accounts of a number of witnesses, including Mr Moran, Mr Martin and Ms Suckfüell, referred to at [94] to [96] above, it appears Simone walked away from the campsite between approximately 11:30pm and 11:45pm following an argument. Then, Mr Groth and Dr Repin, independently of each other, saw a woman matching Simone’s description outside the Carvan Park near the roundabout at the intersection of Dawson and Uralba streets at about 11:55pm. That is, she was seen “*walking alone to towards the location that [her] body was located*”. This evidence taken together was submitted to be “significant”.²¹⁴

²¹² BOE V1A tab 18, p. 110.

²¹³ CAS at [163].

²¹⁴ CAS at [148]-[150]; [155]-[161]

190. Counsel Assisting summarised the evidence of Mr Groth and Dr Repin as follows:²¹⁵

Mr Groth noticed a female, wearing black and red coloured hippy style clothing walking along the footpath over the Dawson Street aqua duct bridge which is at point "P" of [Exhibit 26]. Mr Groth said that she was walking in the direction he was travelling, which was towards the Dawson and Uralba Street roundabout and is where Dr Repin saw the female. The location of Dr Repin's sighting is near the point marked "G" which is where Simone's black top was located. Dr Repin said the female held a black item of clothing in her hand to shield her eyes from the lights of his car. He could not recall the colour of the female's clothing and described her as Caucasian, unremarkable height and build with brown hair.

191. Counsel Assisting noted that, while it is possible Simone could have returned to the campsite, there is no direct evidence that she did, a point which DS Mackie acknowledged in his oral evidence.²¹⁶

192. Mr Moran made submissions regarding a possible third independent sighting of Simone by Ms Lesson outside the Caravan Park late on the evening on 11 February.²¹⁷ These submissions do not appear to take things much further, however, noting the timeframe given in Ms Lesson's statement (11:15-11:20pm) is contradicted by the CCTV footage from the Ampol service station, showing the group returning from the Gollan Hotel at around that time. While Mr Moran suggested this clear inconsistency suggests Ms Lesson's timing was wrong and that she saw Simone later,²¹⁸ Ms Lesson's evidence was not tested at the hearing.

193. The Strobel family did not refute the evidence of Mr Groth and Dr Repin, however, they relied on the evidence of other witnesses in the Caravan Park, namely Anitta Hill, and Robert and Diana Newby, to submit that it is possible Simone returned to the Caravan Park after the sightings by Mr Groth and Dr Repin. I summarised

²¹⁵ CAS at [149].

²¹⁶ CAS at [162] citing T75.48 – T76.3.

²¹⁷ Moran submissions at [11].

²¹⁸ Moran submissions at [12]-[13].

the evidence of Ms Hill and the Newbys, and the family's submissions regarding same, at [100] to [104] above.

194. As to the timings given by Ms Hill and the Newbys of when they heard the shouting and when, in the case of Ms Hill, she approached the campsite and told the group to "*Fucking shut up*", Counsel Assisting submitted that they may not be reliable. They note that the evidence of these witnesses is "*not tethered to an event at a particular point-in-time*" and "*[e]ach of them was awoken from sleep.*" Counsel Assisting also submitted that, if the timings given by Ms Hill and the Newbys are accurate, it follows that Mr Groth and Dr Repin did not see Simone at 11:55pm but rather another female resembling her, which would be improbable.²¹⁹ I accept these submissions.
195. The family expressed disappointment in their closing submissions that Ms Hill and the Newbys were not called at the inquest, noting their evidence is "*crucial*".²²⁰ The family said they do not know why most key witnesses were not called.²²¹ In reply, Counsel Assisting submitted that each of those witnesses made a contemporaneous police statement or statements, which were tendered and are before me. They noted that "*further accounts by a witness 20 years after the events may distort the quality of the evidence*" and I am best placed to make findings based on witnesses' contemporaneous accounts.²²² I agree with Counsel Assisting's submissions in reply.
196. As to what evidence can be accepted, Counsel Assisting submitted that I can be satisfied of the accuracy of Mr Groth's evidence regarding the time he saw Simone, as he made a note of the time he left work in his diary, a copy of which was tendered at the hearing.²²³ Similarly, Counsel Assisting said that I can be satisfied of Dr Repin's timing, noting he was 'on call' that night and arrived at Lismore Base Hospital at Midnight – a time he checked when making his police

²¹⁹ CAS at [153].

²²⁰ Family submissions at [67].

²²¹ Family submissions at [66].

²²² CAS in reply at [9].

²²³ Exhibit 18.

statement.²²⁴ His sighting of Simone at the point marked “G” on Exhibit 25 would have been about five minutes prior, thus at about 11:55pm.²²⁵

197. Counsel Assisting submitted that the time Simone was last seen alive bears upon the likelihood that Mr Moran and/or Ms Suckfüell and/or Mr Martin were involved in her death, because the sightings by Mr Groth and Dr Repin are inconsistent with the theory that she was killed inside the Caravan Park, and consistent with their accounts that she walked away from there between 11:30pm and 11:45pm.²²⁶

198. I find that the evidence of Mr Groth and Dr Repin regarding their sightings of Simone can be relied upon. Both are independent witnesses who saw Simone while driving their vehicles either on their way home from, or to, work – actions which can be tied to particular points in time. When called as witnesses at the fresh inquest, they each gave evidence consistent with their contemporaneous police statements in respect of times. I find that these sightings at around 11:55pm on 11 February 2005 are the last time that Simone was seen alive by someone not involved in her homicide.

Expert evidence

199. In February 2005, forensic entomologist Dr James Wallman conducted a forensic assessment of insect specimens collected from Simone’s corpse. In his subsequent expert report, Dr Wallman estimated that Simone died sometime during the “*one to two days following the last sighting of her alive (late on 11 February 2005)*”.²²⁷

Finding as to time of death

²²⁴ T329.

²²⁵ CAS at [148].

²²⁶ CAS at [162].

²²⁷ BOE Vol 3 Tab 101; CAS at [165].

200. Simone's black top was found on Uralba Street at about 5:30am on 12 February 2005. Counsel Assisting conclude that if Simone was alive when she left the campsite and was seen by Mr Groth and Dr Repin shortly before 12:00am, given the proximity of where Simone's body was found to her campsite, the Court would find that she died between 12:00am and 5:30am on 12 February 2005.²²⁸ This more specific time period is consistent with the earlier finding of Coroner MacMahon, and I make that finding.

Issue 2 – Where did Simone die?

201. In 2007, Coroner MacMahon found that "*it appears likely that Simone had been killed in the vicinity of the Caravan Park and then taken to the wire fence with her clothing removed at or about that time. The body was then hidden*".²²⁹ For the reasons that follow, the location of where Simone was killed was one of the key issues explored at the fresh inquest.

202. Counsel Assisting submitted that this issue raises three related questions:²³⁰

- a. Was Simone killed at the location where her body was found?
- b. If not, would a single person or more than one person be required to transport Simone's body to that location?
- c. If two or more people were involved in Simone's death, how does this impact on the theory that Mr Moran was involved?

Entrance and access to the crime scene

203. The following description of the Bocce Court at Continental Club where Simone's body was found was helpfully set out by Counsel Assisting (footnotes omitted):²³¹

²²⁸ CAS at [165].

²²⁹ BOE V1A Tab 18, p.112.

²³⁰ CAS at [166].

²³¹ CAS at [167].

Simone's body was located within an area enclosed with a wire fence about 2.1 metres high at the front and secured by a padlocked, wire double-gate. The only way into the area without climbing over the fence was through a hole in chicken wire that sat above a wooden portion of the fence. The wooden portion was approximately 800mm from the ground.

204. A NSWPF sketch of the section of the crime scene described above, showing the dimensions of the fence and the hole in the chicken wire, was shown at the hearing.²³² The brief of evidence also contains close up photographs depicting the sharp barbed wire and chicken mesh that sit above the timber paling of the fence.²³³
205. Given the difficulty in accessing the location where Simone's body was found, and the fact that her body was covered in palm fronds, it was submitted that the Bocce Court was chosen as a place to conceal her body from detection. There is no evidence, however, to conclusively prove where Simone was killed.²³⁴
206. Counsel Assisting submitted that it would have been difficult for a person acting alone to have put Simone through the hole in the fence. The evidence said to exemplify this was summarised as follows (footnotes omitted):²³⁵

In 2005, NSW and German Police conducted a reconstruction of the act that would have been required to put Simone through the fence. A female police officer of similar height and build to Simone, was placed through a similar hole that was made in the same fence. The reconstruction was video recorded. Several methods were attempted of putting a female officer of a similar weight and size through the fence. The video depicts the female being placed through the fence with greater ease when two people were involved. DS Mackie, who was present for the reconstruction, gave evidence that it was possible for a person acting alone to put

²³² BOE V7 Tab 367, p. 252.

²³³ BOE V7 Tab 367, p. 255.

²³⁴ CAS at [169].

²³⁵ CAS at [202].

the body through the fence, but it was very difficult to do. A person who was well intoxicated would have experienced even greater difficulty.

207. Mr Moran agreed with that assessment. In his submission, the reconstruction video shows that it would have been “*practically physically impossible for Mr Moran, whilst intoxicated and in darkness, to have acted alone in placing Ms Strobel through the hole in the Bocce Court fence without occasioning more injuries to her body*”.²³⁶ Mr Moran also noted that a person acting alone to do that, particularly if intoxicated, would also be expected to have been injured, yet there were no injuries observed on Mr Moran the next day.²³⁷
208. The family relied on expert evidence from Germany to argue that, if Simone’s body was unclothed when she was passed through the fence, most likely two or more people were involved; however, if she was clothed, it is conceivable that one person moved her into the Bocce Court.²³⁸ That expert evidence was discussed at [161] – [162] above. I note again that Dr McCreath was not willing to go as far as the 2011 German autopsy report in drawing any conclusions about how many people moved Simone through the fence based on the nature of her injuries alone.
209. As to the question of whether Simone was clothed or unclothed when her body moved through the wire fence, I consider it relevant that (1) Simone’s black top was found undamaged; and (2) no fibres from her top were found on the wire fence, although other coloured fibres were found on the fence. When asked at the hearing, DS Mackie said he thought these factors meant it was “*probable*” that Simone was moved through the fence unclothed.²³⁹
210. Finally, on the topic of access to the crime scene, the evidence of its location as a whole suggests that it would have been exceedingly difficult for a person who was not previously aware of the hole in the Bocce Court fence to find it, in

²³⁶ Moran submissions at [37].

²³⁷ Moran submissions at [37].

²³⁸ Family submissions at [45].

²³⁹ T48.10-21.

darkness, in order to conceal a dead body. By contrast, one might expect that a person or persons with local knowledge of the area to have known about the hole in the fence, particularly if they frequently used the shortcut between the north-eastern side of the tennis courts and the south-eastern corner of the Bocce Court. So much so was accepted by DS Mackie at the hearing.²⁴⁰ Indeed, at the previous inquest, the original OIC (DS Diehm) gave evidence that the opening in the fence had been there for “*some time prior*”, and he believed it was used by people who may have wanted to “*seek shelter from the bocce courts from inclement weather or some shade.*”²⁴¹

The ‘screams evidence’

211. The brief of evidence contains statements from multiple witnesses, who lived or were staying locally on the night of 11-12 February 2005 and who say they heard a woman’s screams (the ‘screams evidence’). None of those witnesses were called at the fresh inquest, but their evidence was explored with DS Mackie at the hearing.
212. Counsel Assisting summarised the screams evidence in closing submissions and commented on its relevance and how much weight it ought to be given, noting it should be “*viewed with caution*” but has a “*cumulative effect*”.²⁴² Mr Moran and the Strobel family likewise made submissions on the screams evidence, which I have considered.
213. Due to its relevance to considering the issue of where Simone was killed, I will summarise the evidence of the local witnesses who heard screams or shouting that night. They include:
- a. John Stewart.²⁴³ Mr Stewart told police that he heard a woman scream at about 11:50pm on 11 February from the direction of the northern part

²⁴⁰ T139. 37 – T140.17.

²⁴¹ BOE V1A Tab 19, p. 124.

²⁴² CAS at [173].

²⁴³ BOE V7 Tab 349.

of Oaks Oval. He described what he heard as follows: *"I heard a woman scream for a short time ... Then I heard some males shouting and calling out ... I couldn't hear what they were saying, but they seemed excited."*²⁴⁴ Mr Stewart said he heard a second scream at 12:30am coming from the same direction and location, and said:²⁴⁵

This really caught my attention, something serious was happening. It was the same female screaming out. This scream was shorter, only lasting for two or three seconds at the most. It seemed to have been cut off. It was the scream of someone that was terrified. She was screaming as loud as she could.

- b. Annette Stewart.²⁴⁶ Mr Stewart's wife also told police she heard a scream on about the same night that Simone went missing, describing it as a *"short sharp scream"* in a female voice which *"suddenly stopped"*. She heard it at *"about 11:00pm or a bit later"*.²⁴⁷
- c. Marianne Van de Ven.²⁴⁸ Ms Van de Ven said she heard a female scream after Midnight and on about five further occasions that night. She described hearing *"a quick, sharp, ear pacing scream which reminded me of childbirth screams."*²⁴⁹ She said that she *"thought someone was being hurt"*,²⁵⁰ and that the screams *"seemed to be coming from behind the houses across the road"* where there *"are drains where people obviously drink and stay from time to time..."*²⁵¹
- d. Lee Wright.²⁵² Mr Wright was with Ms Van de Ven on 11 February 2005. He said that at about Midnight he suddenly *"heard a loud, short, high-*

²⁴⁴ BOE V7 Tab 349 at [4].

²⁴⁵ BOE V7 Tab 349 at [7].

²⁴⁶ BOE V7 Tab 348.

²⁴⁷ BOE V7 Tab 348 at [4].

²⁴⁸ BOE V7 Tab 353.

²⁴⁹ BOE V7 Tab 353 at [4].

²⁵⁰ BOE V7 Tab 353 at [5].

²⁵¹ BOE V7 Tab 353 at [6].

²⁵² BOE V7 Tab 360.

pitched scream like someone was in pain".²⁵³ He heard it about five more times, and said it was coming from towards the recycling centre.²⁵⁴

- e. Jasper Ulrich.²⁵⁵ Mr Ulrich heard a loud female scream at about 12:25am from an area between the northern part of Oaks Oval, and the southern part of the Continental Club.²⁵⁶ He described the scream as "*strong and forceful*" and said it "*suddenly stopped as if it was cut short by some external factor*". He said it was "*a terrifying scream, as though someone was being killed*."²⁵⁷
- f. Terrance Dooley.²⁵⁸ Mr Dooley was the night manager at the Caravan Park on 11-12 February 2005. He heard a woman screaming "*Just leave me alone*" and a male voice yelling back, both in English, at around 2:00am. This awoke him from his sleep.²⁵⁹ While at first Mr Dooley thought the noise was coming from inside the Caravan Park, when he stepped outside to look in the direction where the noise was coming from (the roundabout at Dawson and Uralba streets), he did not believe the voices were coming from inside the Caravan Park. He could not see any movement and no lights were on at the powered sites in that direction.²⁶⁰

214. There were more witnesses who heard arguments or raised voices.

215. The directions of the screams and other noises heard by various witnesses, including those listed above, are plotted on maps that were tendered at the fresh inquest: one prepared by the NSWFP;²⁶¹ and one prepared by Mr Moran's representatives.²⁶²

²⁵³ BOE V7 Tab 360 at [3]-[4].

²⁵⁴ BOE V7 Tab 360 at [6].

²⁵⁵ BOE V7 Tab 351 and Tab 352.

²⁵⁶ BOE V7 T352 at [5].

²⁵⁷ BOE V7 T352 at [7].

²⁵⁸ BOE V6A Tab 211.

²⁵⁹ BOE V6A Tab 211 at [12].

²⁶⁰ BOE V6A Tab 211 at [13].

²⁶¹ Exhibit 25

²⁶² Exhibit 13.

216. At the hearing, it was put to DS Mackie that it is difficult to estimate the *distance* that sound travels, but the *direction* of sound is more reliable, and he agreed.²⁶³ DS Mackie also agreed that the above witnesses said the screams they heard came from outside the Caravan Park, roughly in the area of Oaks Oval.²⁶⁴ Oaks Oval is adjacent to the Bocce Court where Simone's body was found and not separated from it by any roadway.²⁶⁵
217. The family submitted that the screams evidence is of "*questionable relevance in determining responsibility for Simone's death given the evidence of their source and location seems vague*".²⁶⁶ It was submitted that the screams evidence has not changed since the previous inquest and, again, my findings should not diverge from Coroner MacMahon's, who referred in his findings to the screams evidence of Ms Van de Ven and Mr Wright as being consistent with DS Illingworth's conclusion that Simone was most likely killed by suffocation or smothering asphyxia.²⁶⁷
218. While recognising that there was a lack of certainty in relation to the screams evidence, Counsel Assisting put to DS Mackie that there was a "*degree of consistency*" in relation to the type of noise heard, being a "*loud, terrifying scream*" that was "*consistent with a female who is fearing for her life*". DS Mackie agreed.²⁶⁸
219. Counsel Assisting ultimately submitted that there is no way of knowing if the screams heard were in fact Simone, and the screams evidence cannot therefore place the location of her death, however, its cumulative effect is inconsistent with the theory that she was killed inside the Caravan Park.²⁶⁹

²⁶³ T82.19-25.

²⁶⁴ T88 – T89; CAS at [172].

²⁶⁵ Exhibit 11; Exhibit 13; Exhibit 25.

²⁶⁶ Family submissions at [27].

²⁶⁷ BOE V1A Tab 18, p. 117; Family submissions at [27].

²⁶⁸ T89.22-35.

²⁶⁹ CAS at [173].

Caravan Park theory

220. As noted above, DS Mackie was asked a number of questions about his case theory at the hearing. In a lengthy statement dated 23 July 2019 prepared in support of the application for a fresh inquest, DS Mackie summarised his case theory as follows:²⁷⁰

Based on the evidence obtained during this investigation I believe that Tobias MORAN killed Simone STROBEL when smothering her by unknown means inside the Campervan during a heated argument in the early hours of Saturday 12 February, 2005. It is my further belief that shortly after her death, MORAN has informed both Katrin SUCKFUELL and Jens MARTIN that Simone was dead and that SUCKFUELL did then leave the campsite in order to conduct a search, not for Simone as indicated by them but rather to search for an appropriate place to hide Simone's body. After which all three persons being Tobias MORAN, Katrin SUCKFUELL and Jens MARTIN assisted each other in taking Simone's body from the Lismore Tourist Caravan Park across the road and hiding her [in] the confines of the Continental Club.

221. Noting the central relevance of Issue 2 to DS Mackie's case theory, I have referred to it here as the 'Caravan Park theory', although it plainly encompasses more than just where Simone was killed and includes a hypothesis for when and how Simone was killed, who killed her and who disposed of her body.

222. When DS Mackie's case theory was explored at the hearing, he said that he thinks it was probable Simone was killed in the campervan at around 1:00am or shortly thereafter on 12 February;²⁷¹ and that more than one person was involved in concealing her body.²⁷² His theory is that Ms Suckfüell and Mr Martin lied to police when they said they had gone searching for Simone when she did not return to the campsite, and they had instead been searching for a place to hide her body.²⁷³ DS Mackie told the Court that he believes Mr Martin lied in his

²⁷⁰ BOE V1B Tab 30, p. 171.

²⁷¹ T55.1-16; Moran submissions at [24].

²⁷² T56.4-7; Moran submissions at [24].

²⁷³ T56.13-44; Moran submissions at [25].

evidence at the previous inquest when he told Coroner MacMahon that he was not involved in Simone's death.²⁷⁴ He conceded, however, that the proposition that Mr Martin was looking for a place to hide Simone's body was never put to Mr Martin by NSWPF investigators.²⁷⁵

223. As to the likelihood of Mr Martin lying to police and to Coroner MacMahon to cover up his involvement in the disposal of Simone's body, Counsel Assisting submitted that it is unlikely Mr Martin would have returned from Germany to Australia *voluntarily* to give evidence at an inquest if he was an accessory after the fact to a homicide. This would have exposed Mr Martin to criminal prosecution.²⁷⁶ I find that it is very unlikely that Mr Martin would have returned to Australia to give evidence voluntarily in an inquest if he had any involvement in Simone's death. Coroner MacMahon also accepted Mr Martin's evidence, which his Honour had the benefit of hearing in person, finding him to be a credible witness.

224. The Strobel family submitted that my findings on the Caravan Park theory should align with those of Coroner MacMahon – that is, Mr Martin was not involved in Simone's death but Mr Moran and Ms Suckfüell were.²⁷⁷ His Honour found that Mr Moran would have had an opportunity to kill Simone in the campervan while Ms Suckfüell and Mr Martin were out searching for her (assuming she had returned to the Caravan Park while they were absent). Then, Mr Moran could have moved her body, either on his own or with his sister's help.²⁷⁸ Coroner MacMahon was satisfied that a person of Mr Moran's height and physical capacity would have been able to move Simone's body from the Caravan Park vicinity to where it was found on his own, although "*no doubt it would have been easier for him to do so with assistance*".²⁷⁹

²⁷⁴ T57.18-36; Moran submissions at [25].

²⁷⁵ T145.27-36; Moran submissions at [25].

²⁷⁶ CAS at [204].

²⁷⁷ Family submissions at [50]. Although, it is noted that in the family submissions at [69], some doubt is expressed as to whether the family still thinks Mr Martin was involved in the killing and concealment of Simone's body.

²⁷⁸ BOE V1A Tab 18, p.118; Family submissions at [28].

²⁷⁹ BOE V1A Tab 18, p.118; Family submissions at [28].

225. Mr Moran submitted that DS Mackie's case theory "*has no foundation in the evidence*".²⁸⁰ Insofar as Issue 2 is concerned, and specifically the theory that Mr Moran killed Simone inside their campervan, Mr Moran pointed to the fact that police found no evidence implicating him when the campervan was searched. There was also no evidence that any struggle had taken place inside the campervan.²⁸¹ While the Strobel family acknowledge this is true, they submitted that you would not expect to find evidence in the van implicating Mr Moran if Simone had been killed by asphyxiation or suffocation.²⁸²
226. With respect to the movement of Simone's body from the Germans' campsite (Point A on Exhibit 25) to the Bocce Court (Point E on Exhibit 25), Mr Moran submitted that there is evidence which calls into question whether this is even physically possible. At the previous inquest, the distance between those two points was estimated by Sergeant Shepherd of Lismore Crime Scene to be 90m to 100m "*as the crow flies*" and 150m to 200m walking, depending on which route was taken.²⁸³ Mr Moran noted that in the 2005 police reconstruction video (referred to at [206]-[207] above), DS Mackie tried to lift and carry a female officer and can be heard saying it would take him an hour to carry a body that distance.²⁸⁴ In his oral evidence, DS Makie accepted that to carry a body across Uralba Street would have been risky endeavour, when there were still people walking around that night, and there was a chance of detection.²⁸⁵
227. Counsel Assisting concluded that the evidence does not establish that Simone was killed in the Caravan Park. Counsel Assisting pointed to several factors which supported their submission that it is probable she was killed in the vicinity of the Continental Club.²⁸⁶

²⁸⁰ Moran submissions at [20].

²⁸¹ Moran submissions at [21(v)]. and [21(vi)]

²⁸² Family submissions at [51].

²⁸³ BOE V1A Tab 19, p. 136.

²⁸⁴ BOE AV-1 Tab 6 at 16:20 – 16:25; Moran submissions at [38].

²⁸⁵ T63.30-43.

²⁸⁶ CAS at [175].

228. DS Mackie himself made concessions in his oral evidence at the hearing, which cast doubt over the Caravan Park theory. While he did not depart from his theory in its entirety, DS Mackie agreed with the following propositions:

- a. If Mr Groth and Dr Repin saw Simone at about 11:45pm, that would be inconsistent with her being killed inside the Caravan Park.²⁸⁷
- b. There is no direct evidence that Simone returned to the Caravan Park after those sightings.²⁸⁸
- c. A body of witnesses described hearing a scream or screams coming from the general area of where Simone's body was found.²⁸⁹
- d. It is a reasonable hypothesis that some of the screams said to have been heard by witnesses on 11 and 12 February were Simone, and the screams evidence is not consistent with her being killed inside the Caravan Park.²⁹⁰

Findings as to location of death

229. I find that it is more likely than not that Simone was killed outside the Caravan Park. This is based on the combined effect of the following evidence in particular:

- a. There is no forensic evidence indicating that Simone was killed inside the Caravan Park.
- b. Simone was seen by Mr Groth and Dr Repin walking away from the Caravan Park at around 11:55pm, and there is no reliable evidence that she returned to the Caravan Park after that time (noting the likely inaccuracies in the timeframes given by Ms Hill and the Newbys).

²⁸⁷ T73.25-39 and T75.40-43; Moran submissions at [29].

²⁸⁸ T75.49 – T76.3; Moran submissions at [29].

²⁸⁹ T139.23-35; Moran submissions at [30].

²⁹⁰ T89.25 – T90.2; Moran submissions at [30].

- c. The location where Simone's body was found, inside a fenced area of the Bocce Courts at the Continental Club was very difficult to access. If Simone had been killed inside the Caravan Park, the perpetrator(s) would have needed to carry her corpse across Uralba Street (a main thoroughfare) to reach the Bocce Courts without detection.
- d. The screams evidence supports the hypothesis that Simone was killed outside the Caravan Park.

230. As to making a finding on the location where Simone was killed, Counsel Assisting submitted that I should find that, "*Simone was killed in the vicinity of Oaks Oval/Lismore Park and the Continental Sport and Recreation Club*". This conclusion was reached by Counsel Assisting based on three key factors: first, the direction that Simone was seen walking by Mr Groth and Dr Repin at about 11:55pm; secondly, the cumulative effect of the screams evidence; and thirdly, the location of her body in the Bocce Court.²⁹¹ Having regard to all of the evidence and submissions, I accept the finding as proposed by Counsel Assisting on this issue.

Issue 3 – Did Simone's killer have a sexual motive?

Expert evidence and Illingsworth report

231. In 2007, Coroner MacMahon found that although Simone was found naked, later postmortem examination determined that she had not been sexually assaulted.²⁹² Counsel Assisting submitted that his Honour's finding in this regard appears to have been based on conclusions contained in the Illingsworth report and that I should not accept those opinions for the following two reasons.²⁹³

- a. *First*, in the vaginal area, Dr McCreath's evidence established that there was extensive maggot activity with multiple defects, and that no obvious

²⁹¹ CAS at [176].

²⁹² BOE V1A Tab 18 p. 112.

²⁹³ CAS at [178]-[179].

injury was identifiable. She also gave evidence that sexual assault can occur in the absence of injury; and she was ultimately unable to give an opinion on whether Simone was sexually assaulted.

- b. *Secondly*, Counsel Assisting submitted it is significant that Simone was found naked, which indicates her clothes were probably removed before she was pushed through the fence. This was said to be supported by the fact that Simone's black top was found (the next day) undamaged and the effort taken to conceal her body.

232. Counsel Assisting submitted it is likely Simone's killer had a sexual motive and summarised their position on this issue as follows:²⁹⁴

The Court should find that the perpetrator intended to take Simone's body to the bocce courts in order to conceal her location. That being so, it is improbable that the perpetrator would remove Simone's clothes after she was at the bocce courts because to do so would increase the number of items left to be discovered and disposed of. It is probable that Simone's clothing was removed for a sexual motive. The inconclusive pathological evidence does not permit a finding that the perpetrator had a sexual motive, however, the circumstances do not permit a sexual motive to be excluded. The pathological evidence is also unable to sustain a finding that Simone was not sexually assaulted. (my emphasis)

233. In his submissions, in addition to noting the fact that Simone's body was found naked, Mr Moran pointed to some expert evidence suggesting a sexual motive, namely dried abrasions found on her nipples at autopsy.²⁹⁵ Dr Patzelt used the phrase "*tangentially acting force*" when referring to how such dried abrasions arise.²⁹⁶ When asked about this at the hearing, Dr McCreath said it was possible the dried abrasions around Simone's nipples related to a tangential force (rubbing) before death, and that it was also possible they were a postmortem

²⁹⁴ CAS at [180]-[200].

²⁹⁵ BOE V1A Tab 5, p.17; Moran submissions at [19].

²⁹⁶ BOE V3 Tab 105, p. 53; Moran submissions at [19].

change due to the body resting against something.²⁹⁷ I note the German autopsy report stated that areas of dry skin are common on a corpse.²⁹⁸

234. The Strobel family urged me to reject Counsel Assisting's submissions that Simone's killer likely had a sexual motive, noting both the absence of evidence of sexual assault and the absence of expert evidence to prove the killer likely had a sexual motive.²⁹⁹ While the family accept it is no longer true to say that the autopsy evidence establishes that Simone was not sexually assaulted, they submitted that I should accept the conclusions of the Illingsworth report. The family noted that DS Illingsworth "*correctly stated*" that the results of the sexual assault investigation kit did not indicate any sexual activity; and that Dr McCreath could not form an opinion as to whether there was a sexual assault.³⁰⁰

235. Counsel Assisting submitted in reply that Dr McCreath's evidence at the hearing established that the factual premises upon which DS Illingsworth's opinions were based were misplaced.³⁰¹ I agree with this submission.

Hot spot evidence

236. Also relevant to the issue of sexual motive is what has been described as the "*hot spot evidence*". This is understood to be a reference to evidence indicating that the area in which Simone was killed was prone to serious and violent crime.

237. In his Opening Address, Mr Strickland SC told the Court:³⁰²

The bocce court where Simone was found was near a known crime hotspot in Lismore, and there is no question there was evidence that there was some unsavoury locals from Lismore who used to drink alcohol very close to that bocce

²⁹⁷ T392.8-28 (15 November 2024).

²⁹⁸ BOE V3 Tab 105, p. 55.

²⁹⁹ Family submissions at [38].

³⁰⁰ Family submissions at [40].

³⁰¹ CAS at [6].

³⁰² T25.32-47.

court, and there is no doubt that on the night of Simone's disappearance, some men, some of them with serious criminal backgrounds, were lurking nearby.

238. That the area was a known hot spot was corroborated in statements by police officers. In his submissions, Mr Moran quoted an excerpt from the statement of Detective Sergeant Max Tutt, who in June 2005 described the vicinity of where Simone was killed as follows:³⁰³

The area where Simone STROBEL went missing (Lismore Tourist Caravan Park) and in particular between the hours of darkness is considered by local Police to be a high risk area. The majority of crime incidents in this area contain a degree of violence, with incidents such as Robbery, Sexual Assault, Assault with Wounding etc, down to common assault and stealing. There are varying reasons for this type of violent crime. This particular area is considered to be a "hot spot".

239. DS Mackie made similar comments in his June 2006 statement when describing the sporting and recreational grounds near the crime scene. DS Mackie stated those areas were "*not well lit*" and were "*generally considered as unsafe during the hours of darkness.*" DS Mackie went on to state that "*a number of offences of violence including assaults, robberies and sexual assaults often occur within these areas*" and most of the violent offences in the area were against Caucasian victims unknown to their offenders.³⁰⁴ In his oral evidence, DS Mackie agreed that it was quite a dangerous place for a woman to go unaccompanied late at night.³⁰⁵

240. Three newspaper articles published in the *Northern Star* and tendered in the brief of evidence, while completely unrelated to Simone's murder, depict other crimes of personal violence in and around Lismore in 2005, including two very violent attacks against a resident of the Caravan Park.³⁰⁶

³⁰³ Moran submissions at [16] citing BOE V2, Tab 71 at [77].

³⁰⁴ BOE V2, Tab 60 at [5]-[8]; Moran submissions at [17].

³⁰⁵ T137; Moran submissions at [17].

³⁰⁶ BOE V16 Tab 636A-C.

Findings as to sexual motive

241. On the evidence before me, including the expert evidence of Dr McCreath, I am unable to find, as Coroner MacMahon did, that Simone was not sexually assaulted.
242. Combining the fact that Simone was found naked with the circumstantial evidence regarding violent crime in the area where her body was found, together with the expert pathological evidence that cannot rule out sexual assault, I accept the submissions that it is likely Simone's killer had a sexual motive. I also accept, on balance, that it is probable her clothes were removed for a sexual motive before her body was pushed through the wire fence and concealed under palm fronds.

Issue 4 – Is a known person responsible for Simone's death?

243. Seven persons of interest were identified in the course of the coronial investigation leading to this fresh inquest. I had the benefit of receiving detailed submissions from Counsel Assisting and the interested parties regarding the evidence as it stands in relation to each of those particular persons of interest.³⁰⁷ An even greater number of persons of interest were investigated by the NSWPF throughout the course of its long-running homicide investigation, with each of those individuals ultimately excluded as suspects by the NSWPF.
244. As previously noted, far more evidence was before me than was before the previous inquest. Additionally, and possibly because of the expanded evidentiary landscape, the fresh inquest investigated a broader spectrum of persons of interest and possible scenarios in an effort to get to the truth of Simone's case.
245. I have considered a vast amount of material in the brief of evidence and the oral evidence given by the nine witnesses at the hearing: DS Mackie, Dr McCreath, Mr Vilder, Mr Groth, Dr Repin, Mr Lenton, Ms McGregor, Mr Tunstall and Mr Thompson. The last six of those witnesses were members of the public living

³⁰⁷ CAS from [182] to [216]; Commissioner of Police at [4]-[6]; Family submissions at [68].

in and around Lismore in February 2005. Four of those witnesses told the Court that two individuals with no apparent connection to one another confessed to them that they were Simone's killer. While I find that those four witnesses were earnest and genuine in their efforts to assist the inquest, it is implausible that those two individuals were both involved in Simone's homicide, noting the complete lack of evidence linking them to one another.

246. In relation to the Green brothers, a number of associates and anonymous informants told police that they were involved in Simone's death, although that information appears to be largely based on second-hand reports and/or rumours within the local community.³⁰⁸

Specific findings urged

247. Mr Moran submitted that I should make an express finding that it is "*very unlikely that [he] had any involvement in Ms Strobel's death*".³⁰⁹ In reply, Counsel Assisting submitted that the evidence does not support the submission urged by Mr Moran.

248. Rather, Counsel Assisting submitted that it is "*very unlikely that Jens or Katrin were involved in Simone's death or the disposal of her body*" and set out the basis for this.³¹⁰ Counsel Assisting also submitted that the scenario of Mr Moran acting alone without being detected by anyone, including Ms Suckfüell and Mr Martin, was "*unlikely*",³¹¹ noting the nature of her injuries and the difficulty one person would have had in passing her body through the wire fence of the Bocce Court.³¹² In this regard, I refer to my comments above at [206] to [210].

249. I have considered the detailed submissions of Counsel Assisting as to why the evidence supports me finding: *first*, that it is unlikely that Mr Martin and Ms Suckfüell were involved in Simone's death; and *secondly*, that it is unlikely

³⁰⁸ BOE V14 Tab 545; CAS at [136].

³⁰⁹ Moran submissions at [3].

³¹⁰ CAS at [182]-[201].

³¹¹ CAS at [201] and [210]; and CAS in reply at [3].

³¹² CAS at [201].

that Mr Moran could have acted alone in killing Simone and disposing of her body. I accept that the evidence before me supports those two findings on the balance of probabilities.

250. I do not, however, accept that the evidence goes so far as to support a finding by me that it is very unlikely Mr Moran was involved in Simone's death.

251. In closing submissions, the Commissioner of Police pointed to the thoroughness of the investigation by the NSWPF, both before and following the previous inquest, and noted Coroner MacMahon's reference to same.³¹³ Counsel Assisting suggested that police arguably could have given more focus to investigating certain persons of interest who were excluded as suspects, four of whom were not part of the German group but were proximate to Simone's whereabouts when she disappeared, and three of whom had histories of violence.³¹⁴ In reply, the Commissioner of Police submitted that those persons of interest were ultimately excluded following extensive and ongoing efforts to thoroughly investigate them since 2005.³¹⁵

252. The Strobel family and Mr Moran made a number of submissions about the quality and thoroughness (or lack thereof) of the NSWPF investigation. I do not however propose to make any assessment on those submissions, noting the adequacy of the police investigation was not an issue under scrutiny in this inquest.

Open finding

253. I am satisfied that the evidence establishes that Simone was killed; however, I agree with Counsel Assisting's submission that I cannot be satisfied as to the cause of her death or that any known person is responsible.³¹⁶ Despite comprehensive police investigations across two countries, and the holding of two

³¹³ Commissioner of Police submissions at [2].

³¹⁴ CAS at [216]-[217].

³¹⁵ Commissioner of Police submissions at p3.

³¹⁶ CAS at [181].

coronial inquests, the identity or identities of the individual(s) involved in Simone's death has not been ascertained over the course of two decades.

254. Noting the recommendation that I propose to make under s 82 of the Act, and that this case remains an unsolved homicide, I do not consider it is necessary or appropriate for me to set out in these public findings all details of the evidence and comprehensive submissions made regarding persons of interest in this case beyond what is set out above.
255. Having carefully analysed the totality of the evidence and submissions with respect to each person of interest identified in this inquest, I have concluded that the threshold for the opinion required under s 78 of the Act is not met.
256. Counsel Assisting submitted that I am in a position to make an open finding that Simone died "*as a result of homicide by a person or persons unknown*". Mr Moran agreed that my formal findings should include such an open finding.³¹⁷ The other parties did not make submissions on the making of an open finding or not.
257. I conclude that an open finding is the only available finding on this issue.

Other issues considered at fresh inquest

Issue 5 – Significance of Mr Moran's lies

258. Extensive submissions were made in relation to lies told, or alleged to have been told, by Mr Moran and his travelling companions in the course of the early police investigations into Simone's disappearance and death.
259. I do not propose to make a determination on every lie told (or allegedly told) by Mr Moran, noting this is an inquest into the manner and cause of Simone's death and not an inquisition into the conduct of Mr Moran. The lies he told are, however, relevant to this inquest. This is because Mr Moran has been a suspect in

³¹⁷ Moran submissions at [2].

Simone's death and because his lies have had an impact on the focus of police investigations at various junctures. Counsel Assisting ultimately submitted that a "*proper analysis of Mr Moran's lies is central to this inquest*" and directly concerned with the discharge of my statutory functions under s 81 of the Act.³¹⁸ I accept that to be the case.

260. The Strobel family likewise submitted that the lies told by Mr Moran, Ms Suckfüell and Mr Martin to both the police and to Simone's family are "*critical*" in this case and that, contrary to other suggestions, there are not innocent explanations for each and every lie told.³¹⁹

Categories of lies

261. In closing submissions, Counsel Assisting identified four categories of lies told by Mr Moran, which can be summarised as follows:³²⁰

- a. The *first* lie related to conflict in his relationship with Simone. The crux of this lie is that Mr Moran initially downplayed the conflict between himself and Simone to NSW Police, denying that there had been a vocal screaming match between them on the night she disappeared.
- b. The *second* lie related to alcohol consumption. In the early period of the investigation, Mr Moran downplayed to NSW Police how much alcohol he had drunk on 11 February 2005, knowingly leaving out 2-3 beers, which he later admitted to police in Germany.
- c. The *third* lie relates to drug use. Mr Moran initially lied to NSW Police about his and the other Germans' use of marijuana.
- d. The *fourth* lie relates to the direction that Simone walked when she left the campsite. It is alleged that Mr Moran told Ms Suckfüell and Mr Martin to lie to police about this and say that she left the Caravan Park.

³¹⁸ CAS in reply at [5].

³¹⁹ Family submissions at [3]-[4].

³²⁰ CAS at [182]-[195] drawing upon the evidence of DS Mackie.

262. Below I set out some explanations given for why those lies were told and a summary of the submissions made in respect of them.

First lie

263. In summary, Mr Moran said he did not want the interpersonal conflict between him and Simone to lead to him becoming a suspect in the police investigation.³²¹ This is supported by Mr Martin's evidence in the previous inquest, in which he said Mr Moran did not want to be suspected by police due to the strong disagreement between him and Simone.³²²

264. In an interview with German police in June 2005, Mr Moran conceded that there was at times tensions in the relationship between him and Simone during their stay in Australia.³²³ He also admitted during that police interview that there was a "*verbal argument*" between them on the night in question.³²⁴ This was in response to being asked about the allegation that there had been a "*vocal screaming match*" between them.³²⁵ In 2010, Mr Moran admitted that he "*went off*" and "*shouted*" at Simone during an argument at their campsite.³²⁶

265. In closing submissions, Mr Moran explained that in addition to wishing to avoid suspicion, another reason he initially downplayed the conflict between him and Simone was because he believed police were not taking her disappearance seriously. He noted that this explanation was conveyed by email to Simone's mother three years later, on 22 December 2008.³²⁷

Second and third lies

266. As to the second and third lies, it was submitted that Mr Moran was dishonest about his alcohol consumption and marijuana use because he thought police

³²¹ CAS at [185]; BOE V1A Tab 21, p. 226.

³²² BOE V1A Tab 21, p.226; CAS at [185].

³²³ BOE V4A Tab 139, p. 145.

³²⁴ BOE V4A Tab 139, p. 149.

³²⁵ BOE V4A Tab 139, p. 149.

³²⁶ BOE V4A Tab 140, p. 179.

³²⁷ Exhibit 21, p. 8; Moran submissions at [56].

were not taking sufficient action early on, and he wanted Simone's disappearance to be taken seriously. He also admitted this to German police in his June 2005 interview.³²⁸

267. Mr Moran also feared being perceived as unreliable if he corrected his initial lies about his drug and alcohol use, telling German police that he "*didn't want to appear as unbelievable*" and that he feared he would be "*suspected*" if he rectified his earlier lies on those topics.³²⁹

Fourth lie

268. Mr Moran has never accepted that he lied to police about the direction Simone walked off or that he told the other Germans to lie about this.³³⁰

269. Mr Martin gave evidence in the previous inquest that Mr Moran initially told him and Ms Suckfüell to tell police that Simone walked out of the entrance/exit to the Caravan Park, rather than in the direction of the toilet block inside the Caravan Park.³³¹ Mr Moran does not accept that he did this, notwithstanding his other admissions about lies on the topics of alcohol, marijuana, and an argument.³³²

270. A hand-drawn map made by Mr Moran during an interview with German police in March 2005 (on which he plotted his campsite, the toilet block and the Caravan Park entrance/exit) is in the brief of evidence and was reproduced in Counsel Assisting's submissions. It was noted that, from the position of the campsite on that map, the toilet block appears to be in the same direction as the entrance/exit to the Caravan Park, making it difficult to assess what difference there is between the two routes if trying to determine the direction in which Simone walked off. In

³²⁸ BOE V4A Tab 139, p. 147.

³²⁹ BOE V4A Tab 139, p. 144; CAS at [184] and [185].

³³⁰ CAS at [186].

³³¹ BOE V1A, Tab 21, p. 226; CAS at [186].

³³² BOE V4B Tab 141, pp. 279-280.

conclusion, Counsel Assisting submitted there is not sufficient evidence to find that the supposed fourth lie amounts to a lie.³³³

271. Mr Moran characterises the fourth lie as an ‘alleged’ lie, the thrust of which is that Mr Moran instructed Mr Martin and Ms Suckfuell to tell police that Simone *left* the Caravan Park, rather than walking off *inside* the Caravan Park.³³⁴ Mr Moran submitted that the source of the apparent lie is Mr Martin’s evidence from his later interviews with German police, together with his evidence at the previous inquest in 2007,³³⁵ but he notes that neither Mr Moran nor Mr Martin actually told police in their earlier 2005 interactions that Simone *left* the Caravan Park. Rather, they made various representations to police that she walked off *in that direction*. Therefore, in Mr Moran’s submission, the supposed fourth “lie” was not even told to the police.³³⁶

Assessment of lies

272. The fact that Mr Moran lied to authorities about certain topics on multiple occasions is not in contention. It is also clear those lies impacted the investigation into Simone’s death, including by increasing attention on the German group as suspects. What remains controversial is what to make of those lies.

273. The brief of evidence contains over 15 separate items (comprising police interviews, formal statements, investigator’s notes and interview notes) containing information that Mr Moran provided to the NSW Police, German police and others between the years of 2005 and 2017. In a 2011 interview, Mr Moran said the day after Simone disappeared, he told Mr Martin the following:³³⁷

I said, Jens, please, please, please, don’t say we had seven beers, please don’t say marijuana got smoked, please don’t say that I had the big argument with my girlfriend 'cause the cop just told me when I walk in after three claps on my

³³³ CAS at [188].

³³⁴ Moran submissions at [48] citing CAS at [188],

³³⁵ Moran submissions at [46]-[48].

³³⁶ Moran submissions at [49]-[51].

³³⁷ BOE V4B Tab 141, p. 242.

shoulder, Hey, mate, don't you worry, we know how that goes, a few beers, some weed, a bit of a (sic) argument, she goes away for 3, 4 days, we have that every weekend, mate, don't you worry.

It was submitted that the above passage demonstrates that Mr Moran planned to lie to police before his first interview, which is what Mr Martin later claimed.³³⁸

274. The brief of evidence also contains a considerable body of statements and information given by Mr Martin and Ms Suckfuell over the years. Mr Martin gave one statement to NSW Police and participated in one police interview in NSW in February 2005; he then partook in a further ten interviews with German police between 2005 and 2019. Mr Martin and Ms Suckfuell adopted the first, second and third lies described above. For Mr Martin, this occurred in at least in his earlier dealings with authorities; and for Ms Suckfuell, the lies extended beyond that. Their dishonesty had the effect of increasing police suspicions around the Germans' involvement in Simone's death.

275. Counsel Assisting referred to the warning given to juries in criminal trials in NSW about the "*considerable care*" required when approaching the topic of lies, as enunciated in *R v Ray* (2003) 57 NSWLR 616 at [98]. They further submitted that:³³⁹

... people tell lies for a myriad of reasons, including when they have not committed a crime. In criminal cases judges must warn juries that care is needed when assessing the use that can be made of lies because a person may lie for many reasons. In New South Wales, juries are instructed that people do not always act rationally, and that telling a lie may sometimes be explained in other ways. Juries are told that a person may have a reason for lying quite apart from trying to conceal their guilt. For example, a lie may be told out of panic; to escape an unjust accusation; to protect some other person; or to avoid a consequence unrelated to the offence. That judicial direction is apposite in this case. (footnotes omitted)

³³⁸ CAS at [190]-[191].

³³⁹ CAS at [192].

276. Counsel Assisting submitted that the lies told and maintained by Mr Moran were “*reprehensible*”, as well as being “*persistent and numerous*”.³⁴⁰ However, Counsel Assisting concluded that when regard is had to all of the evidence before this fresh inquest, I would not be satisfied on the balance of probabilities that Mr Moran told those lies due to a consciousness of guilt.³⁴¹
277. The family disagrees with that assessment, submitting that Counsel Assisting did not adequately consider certain aspects of the lies told by the German group, namely their context and timing. The set out detailed submissions urging me to place greater weight on the lies,³⁴² in effect asserting that they demonstrate a consciousness of guilt.
278. The family produced an Annexure to their submissions; a document of over 35 pages titled, “*Summary of Contradictory Statements, lies and collusion*” to which I have had regard. This Annexure was said to summarise various versions of facts given in police interviews with Mr Moran, Ms Suckfüell and Mr Martin (all of which I note are in the tendered brief of evidence).
279. Central to the family’s submissions on the lies is the assertion that Mr Moran’s dishonesty started on the first day Simone was missing, before he or anyone else could have known that a major crime, let alone a homicide, had been committed. The family argued that the timing of Mr Moran’s lies is important, as it would have been unnecessary for him to lie or to invent facts to avoid suspicion in a missing person investigation, as compared to a criminal investigation. Therefore, the family conclude that the lies “*can be interpreted as evidence that Tobias already knew a crime had occurred.*”³⁴³ I note the family do however appear to accept that there may be an innocent explanation for Mr Moran’s lies around drug use.³⁴⁴

³⁴⁰ CAS at [193].

³⁴¹ CAS at [194] – [195].

³⁴² Family submissions at [13]-[22].

³⁴³ Family submissions at [17]-[20].

³⁴⁴ Family submissions at [22].

280. Mr Moran's submissions on the topic of the lies and the weight to be given to them are very much in opposition to those of the family. He pointed to what might be described as innocent or reasonable explanations for the first three lies, and he rejects the allegation of the fourth lie. Further, Mr Moran submitted that the use of the word "*reprehensible*" by Counsel Assisting to describe the lies is "*an overstatement with normative and moral overtones which are not apposite in the context of this inquest.*"³⁴⁵

281. Overall, Mr Moran submitted that any severe moral judgment of him in these findings is not warranted for various reasons, which I summarise as follows:

- a. He was a 24-year-old foreign national involved in a homicide investigation with no support in the country, aside from his sister and friend. He was at times questioned without caution and without an interpreter in his non-native language. His police interviews and interactions are said to demonstrate his language difficulties.³⁴⁶
- b. He was "*concerned*" on the morning of 12 February and became "*increasingly upset*" during the period up to 17 February while Simone was still missing. He had been Simone's intimate partner for six years prior and, aside from the conflict in the days immediately before her disappearance, he says they had a "*loving and harmonious relationship.*" Owing to his emotional distress during the five-day period that Simone was missing, police arranged for him to be prescribed Valium.³⁴⁷
- c. When Simone was found deceased, Mr Moran was described by a police officer as "*hysterical*" and was taken by ambulance to hospital. He and Ms Suckfuell were given a support person 24 hours per day.³⁴⁸
- d. In relation to the lies around drugs and alcohol use, Mr Moran submitted that it is not uncommon for people to lie to police about such matters, and

³⁴⁵ Moran submissions at [39].

³⁴⁶ Moran submissions at [40].

³⁴⁷ Moran submissions at [41]-[42].

³⁴⁸ BOE V2, Tab 71 at [53]-[55]; Moran submission at [43].

his lies on those topics should not be considered reprehensible or immoral.³⁴⁹

282. I have also considered Mr Moran's detailed submissions in relation to the first and fourth lies,³⁵⁰ the latter of which he does not accept was a lie.

283. In reply to Mr Moran's submission that any severe moral judgment of him is unwarranted, Counsel Assisting maintained that the lies he told were appropriately characterised as reprehensible and are central to this inquest, as noted above.

Findings in relation to lies

284. The evidence relating to the lies and alleged lies are important in this inquest and sense needs to be made of them. In particular, there needs to be consideration of whether they were made due to some consciousness of guilt about Simone's homicide. I adopt the approach enunciated in *R v Ray* (2003) 57 NSWLR 616 at [98] and the need to take "*considerable care*" when approaching the topic of lies. When taking into account all the submissions on this topic and the totality of the evidence before me at this inquest, I cannot be satisfied on the balance of probabilities that Mr Moran told those lies due to a consciousness of guilt relating to Simone's homicide.

285. Having regard to my conclusion at [284] and noting my function is to determine manner and cause of death, I do not consider it is necessary to make any further findings in relation to the lies told by Mr Moran.

³⁴⁹ Moran submissions at [44].

³⁵⁰ Moran submissions at [53]-[58].

Issue 6 – Cause of death evidence

286. As noted above, none of the autopsy reports prepared in relation to Simone record a cause of death, with both the Australian and German forensic pathologists unable to explain her death through injury or pathology.

287. In the course of the fresh inquest, Counsel Assisting examined the forensic pathology evidence in detail, ultimately submitting that the evidence is unable to determine the cause of Simone's death.³⁵¹ Mr Moran likewise submitted that it cannot be concluded, having regard to the totality of that evidence, that the most likely cause of death was suffocation or smothering asphyxiation.³⁵²

288. The Strobel family does not agree. They submitted that the cause of Simone's death was probably smothering asphyxia or suffocation, a submission predicated on opinions contained in the Illingsworth report, which were in turn relied on by Coroner MacMahon.³⁵³ Summarising the Illingsworth report, the family submitted that the lack of injury causing Simone's death indicates that pressure may have been applied to her neck with a knee or forearm with a padded item or plastic bag.³⁵⁴

289. I note that Coroner MacMahon found as follows:³⁵⁵

Detective Illingsworth however, noting the physical findings of the forensic pathologists suggests that Simone died from suffocation or smothering asphyxia and described how this might have occurred. The evidence is clear that Simone's death was not the result of any natural cause or accident and as such, in the absence of any other rational explanation, Detective Illingsworth's suggestion has considerable merit and I accept it as the most likely cause of Simone's death.

³⁵¹ CAS at [219].

³⁵² Moran submissions at [2].

³⁵³ Family submissions at [54].

³⁵⁴ Family submissions at [24] paraphrasing Illingsworth report, BOE V3, Tab 128 at [144]-[146].

³⁵⁵ BOE V1A Tab 18, p. 117.

290. The Strobel family believe that the above finding should stand as there is no new evidence to refute it.³⁵⁶
291. In their closing submissions, the family stated that DS Illingsworth wished to give evidence at the fresh inquest and to respond to Dr McCreath's evidence but her request was declined by those assisting me.³⁵⁷ Further, the family requested that I obtain a further limited report from DS Illingsworth to see "*whether her views about the case have changed as a result of the change in Dr McCreath's evidence.*"³⁵⁸ It is not clear what is meant by the change in Dr McCreath's evidence.
292. Elsewhere in their closing submissions, the family urged that I should make an express direction for further forensic opinion to be obtained on the cause of Simone's death, asking that I pursue this enquiry as an important step toward clarifying the cause of Simone's death.³⁵⁹
293. In reply to the family's submissions regarding DS Illingsworth giving evidence at the fresh inquest, Counsel Assisting clarified that on 13 November 2024, the interested parties were asked whether they wished for DS Illingsworth to be called as a witness. Ultimately, no party made an application to call her, including DS Mackie who was represented.³⁶⁰ Had such an application been made, this could have occurred on Day 4 or Day 5 of the hearing. Counsel Assisting also submitted that seeking a further report or opinion from DS Illingsworth or from a forensic psychologist would not advance the unanswered questions around Simone's cause of death.³⁶¹

³⁵⁶ Family submissions at [55]-[56].

³⁵⁷ Family submissions at [42].

³⁵⁸ Family submissions at [43].

³⁵⁹ Family submissions at [26]. The family suggested at [25]-[26] of their submissions a particular forensic expert from the United Kingdom, citing evidence they gave in relation to the death of a New Zealander in England. That evidence was not before me.

³⁶⁰ CAS in reply at [8].

³⁶¹ CAS in reply at [7].

294. The fact that no suitably qualified forensic expert has been able to determine a medical cause of death is deeply troubling and has further complicated the long-running police and coronial investigations into Simone's death.
295. I am unable to find, as Coroner MacMahon did, that the most likely cause of death was suffocation or smothering asphyxia. I accept the submissions that no cause of death can be determined on the available evidence.
296. I have taken into account the submissions made by the Strobel family regarding forensic opinion on cause of death in formulating the recommendation that I propose to make pursuant to s 82 of the Act. As Counsel Assisting noted, it would remain open to the NSWPF Unsolved Homicide Team to seek further evidence of this kind in the future.³⁶²

Issue 7 – Unmatched DNA profiles

297. Counsel Assisting and Mr Moran's submissions addressed the status of DNA evidence and, significantly, two profiles detected in Simone's investigation which remain unmatched. I refer to that evidence above. The Moran submissions also refer to unmatched DNA on a number of 'trace' items identified in a report prepared at Freiburg University in Germany in 2012. I note these items appear to be DNA extracts from elutions and scrapes of different surfaces at the crime scene.³⁶³
298. The two more significant DNA profiles are Hair A and Unknown Male D. Hair A was located on the tennis court fence adjacent to the entrance the Bocce Club fence through which Simone's body was passed. In 2012, German analysts identified an mtDNA (mitochondrial) profile on Hair A which they could not match, and which remains unmatched.

³⁶² CAS in reply at [7].

³⁶³ BOE V3 Tab 114, pp. 121-124; Moran submissions at [68].

299. Unknown Male D is a nuclear DNA profile found on Simone's black top. That profile was identified by German analysts in 2019 has also never been matched to any individuals in this investigation. The Unknown Male D profile is searching on the Australian national DNA database and, as at the time of the hearing, had not matched to any person.³⁶⁴

300. Mr Moran submitted that the exhibit holdings should be reviewed to determine whether there are any further items that should be forensically tested and/or any DNA profiles that can be matched.³⁶⁵ Counsel Assisting agreed.³⁶⁶ I have taken these submissions into consideration in the formulation of the recommendation I intend to make under s 82 of the Act.

Formal findings as to manner and cause of death

301. Pursuant to section 81(1) of the Act, I make the following findings on the balance of probabilities in this inquest:

- *Identity of the deceased:* The person who died was Simone Monika Strobel (Simone).
- *Date of death:* Simone died on 12 February 2005.
- *Place of death:* Simone died in the vicinity of the Continental Music, Sports and Recreation Club in Lismore, New South Wales, Australia.
- *Cause of death:* I am unable to determine the cause of Simone's death.
- *Manner of death:* Simone died as a result of homicide by a person or persons unknown.

³⁶⁴ T15.28-30 (Opening Address).

³⁶⁵ Moran submissions at [69].

³⁶⁶ CAS in reply at [12].

Recommendation

Submissions on proposed referral to the NSWPF UHT

302. Section 82 of the Act empowers me to make such recommendations as are considered necessary or desirable in relation to any matter connected with the death the subject of an inquest.
303. Counsel Assisting submitted that is appropriate for me to make a recommendation pursuant to s 82(2)(b) of the Act to refer this case to the NSWPF Unsolved Homicide Team (**UHT**) for further investigation. The Commissioner of Police and Mr Moran supported the proposed recommendation to the UHT, but each suggested additions or variations to its precise formulation.³⁶⁷ DS Mackie also supported a referral of the case to the UHT.³⁶⁸
304. Following consultation with Detective Superintendent Danny Doherty APM of the Homicide Squad, State Crime Command, the Commissioner of Police proposed alternative phrasing for any referral to the UHT, to ensure assessment and monitoring of the case occurs in accordance with their operating procedures.³⁶⁹ I accept that revised phrasing.
305. Mr Moran submitted that DS Mackie should have no ongoing or further involvement in the investigation into Simone's death, asserting that he did not assess the evidence with an open mind and remained committed to his theory of the crime despite evidence to the contrary and the "*implausibility of his theory*".³⁷⁰
306. In response, DS Mackie filed a supplementary submission noting this Court cannot make any order of that kind; and, in any event, should I refer this matter to the UHT, he would no longer have oversight of the criminal investigation as he is not attached to the UHT.³⁷¹ Counsel Assisting agreed that I should not

³⁶⁷ Commissioner of Police at [7]; Moran submissions at [34] and [69].

³⁶⁸ DS Mackie reply submission.

³⁶⁹ Commissioner of Police submissions at [8].

³⁷⁰ Moran submissions at [34] and [69].

³⁷¹ DS Mackie reply submission.

recommend that DS Mackie have no further involvement in the case, noting that this Court need not interfere with the UHT's operating procedures.³⁷² I agree with this.

307. Mr Moran also submitted that the exhibit holdings should be reviewed to determine whether any further items should be forensically tested and whether any DNA profiles can be matched.³⁷³ Counsel Assisting agreed that the UHT should consider those suggestions. I accept that those are helpful suggestions to direct the UHT's attention, noting the vast totality of the forensic evidence gathered in this case.

308. The Strobel family did not make submissions about the proposed s 82 referral to the UHT but asked me to make various directions for further evidence to be obtained, as noted above.³⁷⁴ I have considered those submissions and decline to direct that a further report be obtained from DS Illingsworth.

309. Counsel Assisting agreed with the family's suggestions to the extent of recommending that the UHT may wish to consider obtaining further expert evidence as to the cause of Simone's death. I have taken all of these submissions into account in the wording of the s 82 recommendation referring the matter to the UHT, which I make below.

³⁷² CAS in reply at [13](a).

³⁷³ Moran submissions at [69].

³⁷⁴ Family submissions at [26], [43] and [71].

Formulation of referral to the NSWPF UHT

310. Pursuant to s 82(2)(b) of the Act, I recommend as follows:

- 1) I recommend that the death of Simone Strobel be referred to the NSW Homicide Squad, Unsolved Homicide Team (UHT) for assessment and monitoring in accordance with their operating procedures; and I suggest that the UHT should give particular consideration to:
 - a. reviewing the exhibits, in particular the male DNA profile recovered from Simone's black top, to determine whether there are any further items or DNA profiles of individuals that should be forensically tested and whether any DNA profiles can be matched; and
 - b. conducting further analysis of the mtDNA profile recovered from Hair A; and
 - c. whether further expert opinion regarding the cause of Simone's death can be obtained.

Acknowledgments and concluding remarks

311. Finally, I wish to express my thanks to my counsel assisting team, Mr Strickland SC and Mr McAuliffe, and their instructing solicitors, Ms Buchan and Ms Karrour of the NSW Crown Solicitor's Office, for the ongoing assistance they provided to me in this tragic and complex inquest, which threw up a number of challenges.

312. I am grateful for extensive work undertaken by the Strobel family and the representatives for other interested parties, to also assist me in the matters which inform these findings.

313. I acknowledge that this has been an extremely difficult process for Simone's family, who have had to endure not one but two inquests into her death. The

trauma of losing a loved one in these circumstances and in a foreign country is unimaginable, and the family still do not have the answers that they are so desperately seeking.

314. I express my heartfelt condolences and wish that the Strobel family will one day know the truth of what happened to Simone.

315. I close this inquest.

Magistrate Teresa O'Sullivan

NSW State Coroner

6 November 2025